JOURNAL

of the

HOUSE OF REPRESENTATIVES

of the

General Assembly

of the

Commonwealth of Kentucky

2004 Regular Session

Volume I

Held in the State Capitol in the City of Frankfort,
at Frankfort, in the Year of Our Lord 2004,
and in the Two Hundred and Twelfth
Year of the Commonwealth

Begun on Tuesday, the Sixth Day of January, 2004, and Adjourned Sine Die on Tuesday, the Thirteenth Day of April, 2004

Paid for from state funds

FOREWORD

The Kentucky Constitution requires each chamber of the General Assembly to keep a journal as a public accounting of daily legislative activity. The journal is the official record of action.

The Kentucky Revised Statutes require the Legislative Research Commission to compile, edit, correct, and publish the journals of each chamber. This is the House Journal for the Regular Session of the 2004 General Assembly.

Texts of bills, joint resolutions, and concurrent resolutions appear in the journal on the day of their first reading. Texts of simple resolutions appear on the day of either their first reading or adoption. Texts of committee amendments appear when they are reported out of committee and floor amendments are inserted at the end of the day on which they were filed. The appendices include a table of actions on bills and resolutions, a list of elected representatives, roll call votes, and a sponsor and subject index.

JoAnn Paulin, Rhonda Carter, and Shelly Purvis prepared the *House Journal* for the 2004 Regular Session. The edited copy and appendices in this volume reflect the cooperative efforts of the LRC Staff.

Robert S. Sherman
Director

The Capitol
Frankfort, Kentucky
2005

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JOURNAL
OF THE
HOUSE OF REPRESENTATIVES
OF THE
GENERAL ASSEMBLY
OF THE
COMMONWEALTH OF KENTUCKY

REGULAR SESSION 2004

TUESDAY, JANUARY 6, 2004

FIRST LEGISLATIVE DAY

At a General Assembly of the Commonwealth of Kentucky, held at the Capitol in the City of Frankfort, and begun on January 6, 2004, the two hundred and twelfth year of the Commonwealth, in accordance with the provisions of the Constitution, Speaker Jody Richards assumed the Chair and called the House to Order.

Prayer by Reverend Jana Hall, First Presbyterian Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The Speaker stated that the membership remained the same as that of the 2003 Regular Session, with the exception of a vacancy in the 95th district.

The roll was called. All members present except Representatives Bather, Bruce, and Stewart.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Adkins, newly elected Majority Floor Leader, addressed the House.

Representative Adkins moved the nominations of the following House Constitutional Officers to serve until Midnight, December 31, 2004:

Chief Clerk: Lois Pulliam

Assistant Clerk: Sandi Morris

Enrolling Clerk: Margaret Watts

Sergeant at Arms: George Fritz

Chief Doorkeeper: J. O. Whitaker

Cloakroom Keeper: Barry Holder

Janitor: Bob Goodwin

Janitor: Frank Smith

Representative Adkins moved that the nominations cease and the nominees be elected by acclamation. Agreed.

The oath of office was administered to the Constitutional Officers by Judge William Graham.

Representative Adkins moved that the rules be suspended to introduce and act on Resolutions. Agreed.

Introduction of Bills and Resolutions

HR 1, by Representative Richards: A RESOLUTION extending an invitation to the pastors of the Frankfort churches to open sessions of the 2004 Regular Session with prayer.

HR 2, by Representative Richards: A RESOLUTION directing the appointment of a committee to wait upon the Governor.

Representative Adkins moved the adoption of the following **HR 1**:

HR 1, A RESOLUTION extending an invitation to the pastors of the Frankfort churches to open sessions of the 2004 Regular Session with prayer.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Sergeant-at-Arms is directed to invite the pastors of the various churches of Frankfort to attend the meetings of the House of Representatives and open daily sessions of the 2004 Regular Session with prayer.

There being no objection **HR 1** was adopted.

Representative Adkins moved the adoption of the following **HR 2**:

HR 2, A RESOLUTION directing the appointment of a committee to wait upon the Governor.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Speaker of the House of Representatives shall appoint a committee of the House to join a like committee from the Senate to wait upon the Governor and inform him that the 2004 Regular Session of the General Assembly is prepared to receive any message he may care to deliver.

There being no objection **HR 2** was adopted.

Representative Adkins moved that the reading of pre-filed bills by sponsor and title be waived and a list of these be spread upon the Journal. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 1, by Representative Richards: AN ACT relating to executive branch state employees.

HB 2, by Representative Richards: AN ACT relating to noncompetitive negotiation.

HB 3, by Representative S. Lee: AN ACT relating to fetal homicide.

HB 4, by Representative Damron: AN ACT relating to parks and recreation.

HB 5, by Representative Damron: AN ACT relating to parks and recreation and declaring an emergency.

HB 6, by Representative Damron: AN ACT creating the Interstate Compact for Juveniles.

HB 7, by Representative Damron: AN ACT relating to consumer protection.

HB 8, by Representative Yonts: AN ACT relating to mines and minerals.

HB 9, by Representative Yonts: AN ACT relating to retirement.

HB 10, by Representative Couch: AN ACT relating to children with disabilities.

HB 11, by Representative Nelson: AN ACT relating to insurance.

HB 12, by Representative S. Lee: AN ACT relating to school financial statements.

HB 13, by Representative Napier: AN ACT relating to the notification of parents or guardians when certain health services are provided to minors.

HB 14, by Representative S. Lee: AN ACT relating to tongue splitting.

HB 15, by Representative Yonts: AN ACT relating to employment practices of public agencies.

HB 16, by Representative Nelson: AN ACT relating to the hiring of school personnel.

HB 17, by Representative Nelson: AN ACT relating to selection of school personnel.

HB 18, by Representative Damron: AN ACT relating to carrying a concealed deadly weapon.

HB 19, by Representative Damron: AN ACT relating to the insurance premium tax.

HB 20, by Representative Damron: AN ACT relating to the identification of certified volunteer firefighters.

HB 21, by Representative Damron: AN ACT relating to the Kentucky Military Museum.

HB 22, by Representative Yonts: AN ACT relating to the use of juries in competency hearings conducted in guardianship proceedings.

HB 23, by Representative Yonts: AN ACT relating to actions terminating parental rights.

HB 24, by Representative Yonts: AN ACT relating to crimes and punishments.

HB 25, by Representative Yonts: AN ACT relating to crimes and punishments.

HB 26, by Representatives Weaver, P. Clark, R. Adams, Nelson, Damron, Gooch, Edmonds, Riggs, Nesler, T. Thompson, Richards, A. Arnold, and Sims: AN ACT relating to partial-birth abortion.

HB 27, by Representative Coleman: AN ACT relating to crimes and punishments and declaring an emergency.

HB 28, by Representative Nelson: AN ACT relating to the Kentucky Educational Excellence Scholarship program.

HB 29, by Representative Crimm: AN ACT relating to personal motor vehicle insurance database.

HB 30, by Representative Crimm: AN ACT relating to collection of local government insurance premium taxes.

HB 31, by Representative S. Lee: AN ACT relating to birth control education programs.

HB 32, by Representative S. Lee: AN ACT relating to abortion.

HB 33, by Representative Haydon: AN ACT relating to traffic regulations.

HB 34, by Representative J. Lee: AN ACT relating to encouraging transportation within the Commonwealth.

HB 35, by Representative Crimm: AN ACT relating to tuition at public postsecondary education institutions.

HB 36, by Representative Siler: AN ACT relating to participation of Head Start teachers in the Kentucky Teachers' Retirement System.

HB 37, by Representative Yonts: AN ACT relating to the Kentucky Virtual High School.

HB 38, by Representative Yonts: AN ACT relating to compulsory school attendance.

HB 39, by Representative Yonts: AN ACT relating to compulsory school attendance.

HB 40, by Representative Yonts: AN ACT designating Muhlenberg County as the birthplace of thumb picking as a style of guitar playing.

HB 41, by Representative Yonts: AN ACT relating to anhydrous ammonia.

HB 42, by Representative Yonts: AN ACT abolishing the rule against perpetuities.

HB 43, by Representative Draud: AN ACT relating to providing the public with information about sex offenders.

HB 44, by Representative Comer: AN ACT relating to telephone solicitation.

HB 45, by Representative Burch: AN ACT relating to electronic gaming at racetracks as a part of the state lottery.

HB 46, by Representative Burch: AN ACT relating to electronic gaming at racetracks as a part of the state lottery, and making and appropriation therefor.

HB 47, by Representative Burch: AN ACT to proposing an amendment to Section 226 of the Constitution of Kentucky relating to video lottery terminals at racetracks.

HB 48, by Representative S. Lee: AN ACT relating to civil actions.

HB 49, by Representative Richards: AN ACT relating to an annual report to citizens on the finances, operations, and management of state government.

HB 50, by Representative Richards: AN ACT relating to candidates' disclosure of income tax returns.

HB 51, by Representative S. Lee: AN ACT relating to school employees.

HB 52, by Representative Jenkins: AN ACT relating to breast cancer research, education, awareness, screening, treatment and funding and making an appropriation therefor.

HB 53, by Representative Marcotte: AN ACT relating to vehicle emission control.

HB 54, by Representatives Draud, Marzian, Wayne, Callahan, and Jenkins: AN ACT relating to revenue and taxation, and making an appropriation therefor, and declaring an emergency.

HB 55, by Representative Napier: AN ACT relating to telephone rates.

HB 56, by Representative Nunn: AN ACT relating to an electronic health information network.

HB 57, by Representatives Denham, Westrom, R. Thomas, and McKee: AN ACT relating to sales tax.

HB 58, by Representatives Wilkey and McKee: AN ACT relating to the tobacco master settlement agreement.

HB 59, by Representative Damron: AN ACT relating to continuing care retirement communities.

HB 60, by Representative Nunn: AN ACT relating to individuals with disabilities.

HB 61, by Representative T. Thompson: AN ACT relating to city-owned volunteer fire departments.

HB 62, by Representative Comer: AN ACT relating to industrial recruiters.

HB 63, by Representatives Richards, Denham, and Weaver: AN ACT relating to credit card solicitations.

HB 64, by Representatives Richards, Denham, and Weaver: AN ACT relating to unsolicited electronic mail communications.

HB 65, by Representative Buckingham: AN ACT relating to telephone solicitation.

HB 66, by Representative Gray: AN ACT relating to the regulation of the use or consumption of tobacco and tobacco products.

HB 67, by Representative Nunn: AN ACT relating to hospitalization of a disabled or incapacitated person.

HB 68, by Representative Damron: AN ACT relating to voting.

HB 69, by Representative Cherry: AN ACT relating to the Kentucky Educational Excellence Scholarship program.

HB 70, by Representative Haydon: AN ACT relating to wineries.

HB 71, by Representative Marzian: AN ACT relating to the penalty for violating handicapped parking requirements.

HB 72, by Representative Marzian: AN ACT relating to nursing.

HB 73, by Representative Marzian: AN ACT relating to nursing.

HB 74, by Representative Graham: AN ACT relating to Myositis Awareness Day.

HB 75, by Representative Stein: AN ACT relating to the child support guidelines table.

HB 76, by Representative Stein: AN ACT relating to adjustments to child support awards for shared parenting time.

HB 77, by Representative Kerr: AN ACT relating to substance abuse.

HB 78, by Representative Meeks: AN ACT relating to the provision of services by county interlocal agreement, making an appropriation therefor and declaring an emergency.

HB 79, by Representative Pullin: AN ACT relating to use of a Kentucky Excellence Education Scholarship award in an out-of-state institution.

HB 80, by Representative Pullin: AN ACT relating to the state lottery.

HB 81, by Representative Burch: AN ACT relating to school facilities.

HB 82, by Representative Burch: AN ACT relating to communicable diseases.

HB 83, by Representative Burch: AN ACT relating to the Harm Reduction Act of 2004.

HB 84, by Representative Burch: AN ACT relating to the Kentucky Racing Health and Welfare Fund and declaring an emergency.

HB 85, by Representative Burch: AN ACT relating to graduated driver's licenses for teenagers.

HB 86, by Representative Burch: AN ACT relating to the charitable drug repository program.

HB 87, by Representative Burch: AN ACT relating to the dispensing of emergency contraceptives.

HB 88, by Representative Burch: AN ACT relating to the abolition of the death penalty.

HB 89, by Representative Burch: AN ACT relating to health insurance coverage for colorectal cancer detection.

HB 90, by Representative Burch: AN ACT relating to children's psychiatric residential treatment facilities.

HB 91, by Representative Webb: AN ACT relating to adoption of the Uniform Child Custody Jurisdiction and Enforcement Act.

HB 92, by Representative Pasley: AN ACT relating to special military license plates.

HB 93, by Representatives Stein and Marzian: AN ACT relating to child safety.

HB 94, by Representative L. Clark: AN ACT relating to sponsorship of bills.

HB 95, by Representative Gray: AN ACT proposing an amendment of the Constitution of Kentucky by creating a Section 3A relating to marriage.

HB 96, by Representative Brinkman: AN ACT relating to engineering.

HB 97, by Representatives Thomas, McKee, Pasley, Hoffman, A. Arnold, Denham, T. Thompson, Buckingham, Nesler, R. Adams, Wilkey, Belcher, Cherry, Sims, J. Arnold, Rand, Adkins, Webb, Yonts and Gooch: AN ACT relating to income tax.

HB 98, by Representative Draud: AN ACT relating to children in the custody of the state.

HB 99, by Representative Montell: AN ACT relating to the Kentucky educational excellence scholarship.

HB 100, by Representative Weaver: AN ACT relating to security of vital records.

HB 101, by Representative Montell: AN ACT relating to the protection of social security number disclosures in domestic relations cases.

HB 102, by Representative Upchurch: AN ACT relating to selection of personnel.

HB 103, by Representative Nunn: AN ACT relating to prescriptions for controlled substances.

HB 104, by Representative Nunn: AN ACT designating the official state repertory theater.

HB 105, by Representatives J. Lee and Jenkins: AN ACT relating to the protection of adults.

HB 106, by Representative Graham: AN ACT relating to state employee layoffs.

HB 107, by Representative Draud: AN ACT relating to revenue and taxation, and making an appropriation therefor, and declaring an emergency.

HB 108, by Representatives Damron, Hall, Edmonds, Gooch, Rand, Weaver, P. Clark, Nelson, R. Adams, Bruce, Pasley, Nesler, Wilkey, R. Thomas, Callahan, Simpson, L. Clark, A. Arnold, Hoffman, Gray, Richards, Adkins, Barrows, and Sims: AN ACT relating to the protection of unborn children.

HB 109, by Representative Meeks: AN ACT relating to interlocal agreements.

HB 110, by Representative Meeks: AN ACT relating to dietary supplement products containing ephedrine group alkaloids.

HB 111, by Representative Meeks: AN ACT relating to autopsy records.

HB 112, by Representative Nunn: AN ACT relating to business names.

HB 113, by Representative Weaver: AN ACT relating to the awarding of high school diplomas.

HB 114, by Representative Farmer: AN ACT relating to sales and use tax.

HB 115, by Representative Nunn: AN ACT relating to telehealth.

HB 116, by Representative J. Lee: AN ACT relating to the Kentucky Independence Plus through Consumer-Directed Services Program Act of 2004.

HB 117, by Representative Walton: AN ACT relating to the Support Education Excellence in Kentucky Program and declaring an emergency.

HB 118, by Representative Yonts: AN ACT relating to drugs.

HB 119, by Representative Meeks: AN ACT relating to the collection of DNA.

HB 120, by Representative T. Thompson: AN ACT relating to library boards.

HB 121, by Representative Sims: AN ACT relating to the use of tobacco products.

HB 122, by Representative Sims: AN ACT relating to homestead exemptions.

HB 123, by Representative Sims: AN ACT relating to state employee educational requirements.

HB 124, by Representative Bratcher: AN ACT relating to public decency.

HB 125, by Representative Bratcher: AN ACT relating to the zoning of adult businesses.

HB 126, by Representative Meeks: AN ACT relating to boxing and wrestling.

HB 127, by Representative Belcher: AN ACT relating to the control of pest plants.

HB 128, by Representative Sims: AN ACT designating the official state repertory theater.

HB 129, by Representative B. Smith: AN ACT designating the official state Daniel Boone portrait.

HB 130, by Representative Westrom: AN ACT relating to student credit cards.

HB 131, by Representative Westrom: AN ACT relating to public safety.

HB 132, by Representative Webb: AN ACT relating to indoor air quality and declaring an emergency.

HB 133, by Representative Brinkman: AN ACT relating to alternative dispute resolution in land use disputes.

HB 134, by Representative Baugh: AN ACT relating to cosmetology licensing.

HB 135, by Representative Farmer: AN ACT relating to enhancing state electronic services to businesses.

HB 136, by Representative Farmer: AN ACT relating to tax return information.

HB 137, by Representative Vincent: AN ACT relating to condominiums.

HB 138, by Representative Vincent: AN ACT relating to county attorneys.

HB 139, by Representative Vincent: AN ACT relating to insurance premium surcharges.

HB 140, by Representative Vincent: AN ACT relating to protection of personal privacy.

HB 141, by Representative Vincent: AN ACT relating to mobile infrared electronic transmitters.

HB 142, by Representative B. Smith: AN ACT relating to traffic regulations.

HB 143, by Representative Fischer: AN ACT relating to code enforcement boards.

HB 144, by Representative Embry: AN ACT relating to compulsive gambling, making an appropriation therefor and declaring an emergency.

HB 145, by Representative Hoffman: AN ACT relating to radon mitigation in buildings.

HB 146, by Representative Vincent: AN ACT relating to the marriage of minors.

HB 147, by Representative Webb: AN ACT relating to building inspectors.

HCR 4, by Representative Napier: A CONCURRENT RESOLUTION petitioning the United States Congress to propose an amendment to the Constitution of the United States, for submission to the several States, to recognize marriage as the union of a man and a woman.

HCR 5, by Representative Damron: A CONCURRENT RESOLUTION designating September as Character Education Month in Kentucky.

HCR 6, by Representative Nelson: A CONCURRENT RESOLUTION petitioning the United States Congress to propose an amendment to the Constitution of the United States, for submission to the several States, to recognize marriage as the union of a man and a woman.

HJR 7, by Representative Yonts: A JOINT RESOLUTION naming the Daniel Boone-Hal Rogers Parkway.

HCR 8, by Representative Vincent: A CONCURRENT RESOLUTION directing the Legislative Research Commission to establish a task force to examine the development of the Lexington/Big Sandy Rail Trail, and suggest a strategy for its completion.

HJR 9, by Representative Edmonds: A JOINT RESOLUTION naming the Breathitt County Veterans Highway.

HJR 10, by Representative B. Smith: A JOINT RESOLUTION naming the 1932 Yancey Mine Disaster Memorial Highway.

HJR 11, by Representative J. Lee: A JOINT RESOLUTION naming the "Sheriff Bobby Thomas Memorial Highway" in Hardin County.

HJR 12, by Representatives Marcotte and Fischer: A JOINT RESOLUTION relating to vehicle emissions control testing.

HCR 13, by Representative Crimm: A CONCURRENT RESOLUTION relating to the protection of the public from sexual offenders.

HCR 14, by Representative Nelson: A CONCURRENT RESOLUTION urging the United States Supreme Court to overturn the United States Court of Appeals for the Ninth Circuit's decision regarding the pledge of allegiance.

HCR 15, by Representative Webb: A CONCURRENT RESOLUTION confirming the appointment of Bayard Collier as a member and chair of the Mine Safety Review Commission.

HCR 16, by Representative L. Clark: A CONCURRENT RESOLUTION urging the Legislative Research Commission to adopt the provisions of the Governor's Executive Order 2001-1084 relating to domestic violence and sexual assault in the public workplace.

HCR 17, by Representative Gray: A CONCURRENT RESOLUTION urging the Congress of the United States to adopt a proposed amendment to the Constitution of the United States to protect the definition of marriage.

HJR 18, by Representative Couch: A JOINT RESOLUTION naming the Vietnam Veterans Memorial Highway.

HJR 19, by Representative T. Thompson: A JOINT RESOLUTION memorializing PFC David Paul Nash of Daviess County, recipient of the Medal of Honor, and declaring an emergency.

HCR 20, by Representative Nelson: A CONCURRENT RESOLUTION in support of the issuance of a commemorative U.S. Postal Service stamp honoring America's coal miners.

HCR 21, by Representative Farmer: A CONCURRENT RESOLUTION directing the Legislative Research Commission to study user fees charged by the state.

HB 148, by Representative Burch: AN ACT relating to children's health.

HB 149, by Representative Burch: AN ACT relating to Hepatitis B vaccinations for postsecondary students.

HB 150, by Representative Burch: AN ACT relating to redistricting and declaring an emergency.

HB 151, by Representative Feeley: AN ACT relating to continuing education for doctors and dentists.

HB 152, by Representative Moberly: AN ACT relating to the Education Professional Standards Board.

HB 153, by Representative Marzian: AN ACT relating to fines for traffic offenses.

HB 154, by Representative Marzian: AN ACT relating to the Kentucky Lottery Corporation.

HB 155, by Representative Marzian: AN ACT relating to all-terrain vehicles.

HB 156, by Representative Riggs: AN ACT relating to county police forces.

HCR 22, by Representative Adkins: A CONCURRENT RESOLUTION confirming the nomination of Tanya A. McGaha to the Governor's Postsecondary Education Nominating Committee.

HCR 23, by Representative Adkins: A CONCURRENT RESOLUTION confirming the appointment of Dan H. Branham to the Education Professional Standards Board.

HCR 24, by Representative Adkins: A CONCURRENT RESOLUTION confirming the appointment of Wilson L. Stone to the Education Professional Standards Board.

HCR 25, by Representative Adkins: A CONCURRENT RESOLUTION confirming the appointment of Cynthia M. Turner to the Education Professional Standards Board.

HCR 26, by Representative Adkins: A CONCURRENT RESOLUTION confirming the appointment of Sid Stewart to the Kentucky Agricultural Development Board.

HCR 27, by Representative Adkins: A CONCURRENT RESOLUTION confirming the reappointment of Sam Lawson to the Kentucky Agricultural Development Board.

HCR 28, by Representative Adkins: A CONCURRENT RESOLUTION consenting to the appointment of Bayard Collier as a member of the Mine Safety Review Commission.

HCR 29, by Representative Adkins: A CONCURRENT RESOLUTION confirming the reappointment of Jennifer M. Headdy to the Kentucky Long-Term Policy Research Center Board for a term expiring October 6, 2007.

HCR 30, by Representative Adkins: A CONCURRENT RESOLUTION confirming the reappointment of Daniel Hall to the Kentucky Long-Term Policy Research Center Board for a term expiring October 6, 2007.

HCR 31, by Representative Adkins: A CONCURRENT RESOLUTION confirming the appointment of Linda L. Livers to the Education Professional Standards Board.

HCR 32, by Representative Adkins: A CONCURRENT RESOLUTION confirming the reappointment of Thomas James Stull to the Education Professional Standards Board.

HCR 33, by Representative Adkins: A CONCURRENT RESOLUTION confirming the reappointment of Kristen Moe Livers to the Education Professional Standards Board.

HCR 34, by Representative Adkins: A CONCURRENT RESOLUTION confirming the reappointment of Lydia Sweeney Coffey to the Education Professional Standards Board.

HCR 35, by Representative Adkins: A CONCURRENT RESOLUTION confirming the reappointment of Willa H. Poynter to the Agricultural Development Board.

HCR 36, by Representative Adkins: A CONCURRENT RESOLUTION confirming the reappointment of Susan G. Harkins to the Agricultural Development Board.

HR 37, by Representative Adkins: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Janice Clay Benson Noel.

Representative Adkins moved that the rules be suspended for a Committee on Committees meeting. Agreed.

Representative Adkins moved to suspend the rules to allow the House to recess. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 41, 58, 97, 127**

Appropriations and Revenue: **HB 34, 54, 57, 107, 114, 117, 122, 144**

Banking and Insurance: **HB 29, 89, 139**

Economic Development: **HB 136**

Education: **HB 10, 12, 16, 17, 28, 35, 36, 37, 38, 39, 69, 79, 81, 99, 102, 131, HCR 5**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 47, 50, 68, 95, HCR 4, 6, 17**

Health and Welfare: **HB 13, 26, 52, 56, 59, 60, 67, 72, 73, 74, 82, 83, 86, 87, 90, 98, 100, 103, 105, 115, 116, 145**

Judiciary: **HB 3, 6, 18, 22, 23, 27, 42, 43, 48, 51, 75, 76, 77, 88, 91, 101, 110, 111, 112, 118, 119, 124, 125, 133, 135, 137, 138, 140, 146, HCR 13, 14**

Labor and Industry: **HB 44, 63, 64, 65, 130, 132**

Licensing and Occupations: **HB 14, 45, 46, 70, 84, 96, 126, 134**

Local Government: **HB 4, 5, 19, 20, 30, 53, 61, 62, 66, 78, 109, 143, 147, HJR 12**

Natural Resources and Environment: **HCR 15, 20**

Seniors, Military Affairs, and Public Safety: **HB 21, 113**

State Government: **HB 1, 2, 9, 11, 15, 31, 32, 40, 49, 80, 94, 104, 106, 121, 123, 128, 129, HCR 16, 21**

Tourism Development and Energy: **HB 55, HCR 8**

Transportation: **HB 33, 71, 85, 92, 93, 141, 142, HJR 7, 9, 10, 11, 18, 19**

Report of Committees

The Committee on Committees has met and reported the following changes:

APPOINT:

Representative Ballard

Chair, Committee on Tourism Development and Energy

REMOVE:

Representative Adkins

Chair, Budget Review Subcommittee on Transportation

Committee on Agriculture and Natural Resources

Committee on Appropriations and Revenue

Committee on Economic Development and Tourism

Task Force on Economic Development

Special Subcomittee on Energy

The resignation of Representative Stumbo was filed.

Motions, Petitions, and Communications

Representative Adkins moved that the rules be suspended to waive the posting on **HB 69** and **HCR 5**. Agreed.

Representative Adkins moved that the rules be suspended for the Introduction of Bills and Resolutions. Agreed.

Representative Adkins moved that the rules be suspended to act on a Resolution. Agreed.

Representative Adkins moved the adoption of the following **HR 37**:

HR 37, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Janice Clay Benson Noel.

With deepest respect and admiration, we pay homage and tribute to Janice Clay Benson Noel, and we pause in silent reverence for her soul.

WHEREAS, Janice Clay Benson Noel was born on April 10, 1957, a native of Woodford County, Kentucky, and she traversed these earthly bounds on October 26, 2003; and

WHEREAS, Janice Clay Benson Noel was the loving daughter of Roy Miller Benson and Roberta "Bobbie" Ritchey Benson; she was the devoted wife of Paul Noel Jr., and she was the loving sister of a brother, Dale M. Benson; and

WHEREAS, Janice Clay Benson Noel was a joyous person, and she possessed the gift of making people laugh with her daily good humor; her compassion was evidenced in the many charitable causes she supported, and, with her passing, she left a legacy of love; she loved her husband, Paul, her friends, and her many cats; and she enjoyed attending family events, and she was an avid University of Kentucky football fan; and

WHEREAS, Janice Clay Benson Noel was a loyal employee of the Legislative Research Commission for 8 years, and during her tenure, she ably served as a legislative assistant for Representatives Rocky Adkins, Fred Nesler, Steve Nunn, John Will Stacy, Larry Belcher, Jim Thompson, John Vincent, Brent Yonts, Jesse Crenshaw, the late Paul Mason, and the late Pete Worthington; and

WHEREAS, the passing of Janice Clay Benson Noel has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Janice Clay Benson Noel, and extends to her family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Janice Clay Benson Noel.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. Paul Noel Jr., P. O. Box 4216, Midway, Kentucky 40347.

There being no objection, **HR 37** was adopted.

On the roll call for co-sponsors the vote was: **Yeas 96**. (See January 6, 2004, roll call to show co-sponsors on **HR 37**-Appendix.)

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 157, by Representative Marzian: AN ACT relating to services for individuals with brain injuries.

HB 158, by Representative Stein: AN ACT relating to appropriate and cost effective staffing of long-term care facilities.

HB 159, by Representative Stein: AN ACT relating to inspections of long-term care facilities.

HB 160, by Representative Wayne: AN ACT relating to social work.

HB 161, by Representative Lindsay: AN ACT relating to the Justice Cabinet.

HB 162, by Representative Moberly: AN ACT relating to debts owed to the Commonwealth.

HB 163, by Representative Moberly: AN ACT relating to school finance.

HB 164, by Representative Moberly: AN ACT relating to state personnel.

HB 165, by Representative Baugh: AN ACT relating to individual income tax.

HB 166, by Representative Baugh: AN ACT relating to adverse possession.

HB 167, by Representative Meeks: AN ACT relating to the Kentucky Native American Heritage Commission.

HB 168, by Representative Meeks: AN ACT relating to special license plates.

HB 169, by Representative Baugh: AN ACT relating to the Kentucky Education Excellence Scholarship program.

HB 170, by Representative Fischer: AN ACT relating to human embryos.

HB 171, by Representative Fischer: AN ACT relating to the cloning of humans.

HB 172, by Representative Collins: AN ACT relating to special license plates.

HB 173, by Representative Fischer: AN ACT relating to labor organizations.

HB 174, by Representative Rand: AN ACT relating to emergency telephone service.

HB 175, by Representative Crimm: AN ACT relating to interior designers.

HB 176, by Representative Coleman: AN ACT relating to school accountability.

HB 177, by Representative Coleman: AN ACT relating to student dropouts.

HB 178, by Representative Coleman: AN ACT relating to student dropouts.

HB 179, by Representative Coleman: AN ACT relating to stream construction permits.

HB 180, by Representative Coleman: AN ACT relating to emergency telephone services.

HB 181, by Representative Harper: AN ACT relating to health care.

HB 182, by Representative Buckingham: AN ACT relating to crimes and punishments and declaring an emergency.

HB 183, by Representative Buckingham: AN ACT relating to the Kentucky Educational Excellence Scholarship.

HB 184, by Representative Harper: AN ACT relating to primary elections.

HB 185, by Representatives Geveden and Cherry: AN ACT relating to a teacher advancement fund and declaring an emergency.

HB 186, by Representatives Nelson, Hall, and Gray: AN ACT relating to minimum wage.

HB 187, by Representatives J. Thompson and Dw. Butler: AN ACT relating to peace officer certification.

HB 188, by Representatives Weaver and Haydon: AN ACT relating to public records.

HB 189, by Representatives Denham and Webb: AN ACT relating to court-appointed special advocate programs.

HB 190, by Representative Brinkman: AN ACT relating to business organizations.

HB 191, by Representative Gray: AN ACT relating to highway signage.

HB 192, by Representatives Damron, Belcher, and Webb: AN ACT relating to sales and use taxes.

HB 193, by Representatives Moberly and Rasche: AN ACT relating to improving student achievement.

HB 194, by Representatives Moberly and Rasche: AN ACT relating to the teachers' professional growth fund.

HB 195, by Representatives Miller, Siler, J. Thompson, Dw. Butler, Collins, Walton, Horlander, Napier, Meeks, and Hoffman: AN ACT relating to leaves of absence for teachers.

HJR 38, by Representative Nunn: A JOINT RESOLUTION directing the Cabinet for Health Services to conduct a study to identify strategies to maximize the use of the federal prescription drug discount program under Section 340B of Public Law 102-585.

HCR 39, by Representative Adkins: A CONCURRENT RESOLUTION confirming the appointment of Marshall D. Slagle to the Kentucky Long-Term Policy Research Center Board to serve the remainder of an unexpired term ending October 6, 2004.

HJR 40, by Representative Buckingham: A JOINT RESOLUTION memorializing Euris Chaney of Calloway County.

HCR 41, by Representatives Nelson, Montell, and Damron: A CONCURRENT RESOLUTION directing the Legislative Research Commission to study the rising cost of auto insurance in the Commonwealth.

HJR 42, by Representative Nelson: A JOINT RESOLUTION naming the "Kentucky Veterans Highway" in Bell County.

HJR 43, by Representative Denham: A JOINT RESOLUTION mandating the Transportation Cabinet to take various actions regarding temporary tourism signs including agritourism signs.

HCR 44, by Representative Gray: A CONCURRENT RESOLUTION urging the United States Congress to enact legislation requiring tighter regulations on indecent television and radio broadcasts.

HCR 45, by Representative Gray: A CONCURRENT RESOLUTION urging the Federal Communications Commission to impose tighter regulations on indecent television and radio broadcasts.

HJR 46, by Representative Gray: A JOINT RESOLUTION naming the Veterans Memorial Highway in Lyon County.

HR 47, by Representatives Weaver, Cornett, Haydon, R. Adams, and Horlander: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Sergeant Gary B. Coleman.

HR 48, by Representatives Weaver, Cornett, Haydon, R. Adams, and Horlander: A RESOLUTION adjourning the House of Representatives in loving memory and honor of John R. Groves, Jr.

HR 49, by Representatives Weaver, Cornett, Haydon, R. Adams, and Horlander: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Martin Andrew Tori II.

HR 50, by Representatives Weaver, Cornett, Haydon, R. Adams, and Horlander: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Sergeant Darrin K. Potter.

HR 51, by Representatives Weaver, Cornett, Haydon, R. Adams, and Horlander: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Sergeant Michael D. Acklin II.

HR 52, by Representatives Weaver, Cornett, Haydon, R. Adams, and Horlander: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Specialist James E. Powell.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 1, Representative T. Thompson

HB 2, Representative T. Thompson

HB 3, Representatives Bratcher, Brinkman, Dw. Butler, Cornett, Couch, Crall, Crimm, DeWeese, Draud, Embry, Farmer, Feeley, Fischer, Geveden, Harmon, Harper, Higdon, Hoover, Kerr, Marcotte, Mobley, Montell, Napier, Nunn, Rader, Stewart, Turner, Upchurch, Vincent, and Walton

HB 49, Representative T. Thompson

HB 52, Representative Crimm

HB 63, Representative T. Thompson

HB 64, Representative T. Thompson

HB 95, Representatives Fischer and Harmon

HB 144, Representative Coleman

HB 170, Representatives Harmon and S. Lee

HB 171, Representative S. Lee

HCR 4, Representatives Baugh, Dw. Butler, Crimm, Damron, Deweese, Edmonds, Ford, Gray, Hall, Harmon, Harper, Higdon, Kerr, S. Lee, Marcotte, Miller, Mobley, Montell, Rader, Rand, Richards, Siler, Stacy, Vincent, and Walton

HCR 6, Representative Cornett

HCR 14, Representative Cornett

HCR 20, Representative Cornett

HJR 10, Representatives Cornett, Couch, and Nelson

Announcements

The following meetings were announced:

Committee on Education - 8:27 a.m., Wednesday, January 7, 2004

Committee on Judiciary - 12 Noon, Wednesday, January 7, 2004

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 2:00 p.m., Wednesday, January 7, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 2:00 p.m., Wednesday, January 7, 2004, was adopted by voice vote.

WEDNESDAY, JANUARY 7, 2004

SECOND LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Jack Brewer, First United Methodist Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Bruce, Ford, and Haydon.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 6, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 196, by Representatives Hoffman and Gray: AN ACT relating to occupational safety and health.

HB 197, by Representative Hoffman: AN ACT relating to radon gas.

HB 198, by Representative Ballard: AN ACT relating to cemeteries.

HB 199, by Representative Ballard: AN ACT relating to roads.

HB 200, by Representative Ballard: AN ACT relating to barbering.

HB 201, by Representative Ballard: AN ACT relating to the compensation of elected county officials.

HB 202, by Representative R. Adams: AN ACT relating to sewer systems.

HB 203, by Representative R. Adams: AN ACT changing the classification of the City of Warsaw, in Gallatin County.

HB 204, by Representative Crimm: AN ACT relating to unused property markets.

HB 205, by Representative Crimm: AN ACT relating to the treatment of sex offenders.

HB 206, by Representative Draud: AN ACT relating to automobile insurance policy claims for diminution in value.

HB 207, by Representative Draud: AN ACT relating to physical activity for students.

HB 208, by Representative A. Arnold: AN ACT relating to filing deadlines for write-in candidates.

HB 209, by Representative A. Arnold: AN ACT relating to election officers.

HR 53, by Representatives Hoffman and Gray: A RESOLUTION urging the Kentucky Occupational Safety and Health Standards Board to study, develop, and adopt an ergonomics standard for the Commonwealth.

HJR 54, by Representative Ballard: A JOINT RESOLUTION naming the "Dr. Loman C. Trover Highway" in Hopkins County.

HJR 55, by Representative Ballard: A JOINT RESOLUTION naming a bridge in honor of Dudley Riley.

HR 56, by Representative Ballard: A RESOLUTION adjourning the House of Representatives in honor of James N. Halvatgis upon his retirement from the Kentucky Department of Veterans' Affairs.

HB 210, by Representative A. Arnold: AN ACT relating to elections and making an appropriation therefor.

HB 211, by Representative A. Arnold: AN ACT relating to payments to county clerks for election related expenses and making an appropriation therefor.

HCR 57, by Representative Upchurch: A CONCURRENT RESOLUTION in support of the issuance of a commemorative U. S. Postal Service stamp honoring Kentucky author Harriette Simpson Arnow.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HCR 26, 27, 35, 36**

Appropriations and Revenue: **HB 162, 163, 164, 165, 192**

Banking and Insurance: **HB 7, HCR 41**

Education: **HB 152, 169, 176, 177, 178, 183, 185, 193, 194, 195, HCR 22, 23, 24, 25, 31, 32, 33, 34**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 184**

Health and Welfare: **HB 148, 149, 151, 157, 158, 159, 160, 181, HJR 38**

Judiciary: **HB 24, 25, 108, 161, 166, 170, 171, 182, 187, 189, 190**

Labor and Industry: **HB 8, 173, 186**

Licensing and Occupations: **HB 175**

Local Government: **HB 120, 156**

Natural Resources and Environment: **HB 179, HCR 28**

State Government: **HB 150, 154, 167, 188, HCR 29, 30, 39**

Tourism Development and Energy: **HB 174, 180, HCR 44, 45**

Transportation: **HB 153, 155, 168, 172, 191, HJR 40, 42, 43, 46**

House Floor: **HR 47, 48, 49, 50, 51, 52**

Report of Committees

The Committee on Committees reported the following changes:

Amend the January 6, 2004 Committee on Committees Report to reflect the Standing Committee assignments of Representative Adkins:

REMOVE:

Representative Adkins

Chair, Budget Review Subcommittee on Transportation, Natural Resources and Environmental Protection

Committee on Appropriations and Revenue

Committee on Economic Development

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill and Resolution have been posted for Committee consideration:

Education: **HCR 5, HB 69**

Report of Committees (Continued)

The Committee on Education reported **HB 69** and **HCR 5** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 69, AN ACT relating to the Kentucky Educational Excellence Scholarship program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.7877 is amended to read as follows:

(1) There is established in the State Treasury a permanent and perpetual fund to be known as the "Wallace G. Wilkinson Kentucky Educational Excellence Scholarship Trust Fund" to which shall be credited net lottery revenues transferred in accordance with KRS 154A.130; gifts; bequests; endowments; grants from the United States government, its agencies, and instrumentalities; ***general funds appropriated to support the provisions of KRS 164.7871 to 164.7885 and KRS***

164.7889; and funds received from any other sources, public or private.

(2) The moneys in the fund are hereby continuously appropriated only for the purposes set forth in KRS 164.7871 to 164.7885 and KRS 164.7889.

(3) *The General Assembly shall appropriate additional general funds to the Kentucky educational excellence trust fund to fully fund the base awards and supplemental awards for scholarships described in Section 2 of this Act during each biennium when the lottery proceeds are estimated by the Council on Postsecondary Education to be insufficient for that purpose.*

(4) The council shall administer the Kentucky educational excellence scholarship trust fund. Upon the approval of the council, the authority may expend funds from the Kentucky educational excellence scholarship trust fund that are necessary and reasonable to meet the expenses of administering the Kentucky educational excellence scholarship trust fund.

Section 2. KRS 164.7879 is amended to read as follows:

(1) Kentucky educational excellence scholarship awards shall be based upon an established base scholarship amount and an eligible high school student's grade point average. The base scholarship amount for students attaining a grade point average of at least 2.5 for the 1998-1999 academic year shall be as follows:

GPA	Amount	GPA	Amount
2.50	$125.00	3.30	$325.00
2.60	$150.00	3.40	$350.00
2.70	$175.00	3.50	$375.00
2.75	$187.00	3.60	$400.00
2.80	$200.00	3.70	$425.00
2.90	$225.00	3.75	$437.00
3.00	$250.00	3.80	$450.00
3.10	$275.00	3.90	$475.00
3.20	$300.00	4.00	$500.00
3.25	$312.00		

The council shall review the base amount of the Kentucky educational excellence scholarship~~[beginning with the 1999-2000 academic year and]~~ each academic year~~[thereafter]~~ and may promulgate an administrative regulation to make adjustments after considering the availability of funds*, except the council shall not decrease the amount of the base scholarship amounts as provided in this subsection*.

(2) (a) The authority shall commit to provide to each eligible high school student the base amount of the Kentucky educational excellence scholarship for each academic year of high school study in the Kentucky educational excellence scholarship curriculum that the high school student has attained at least a 2.5 grade point average. The award shall be based upon the eligible high school student's grade point average at the close of each academic year. An award attributable to a past academic year shall not be increased after the award has been earned by an eligible high school student, regardless of any subsequent increases made to the base amount of the Kentucky educational excellence scholarship through the promulgation of an administrative regulation by the council.

(b) Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874, any high school student who maintains Kentucky residency and completes the academic courses that are required for a Kentucky educational excellence scholarship while participating in an approved educational high school foreign exchange program or participating in the United States Congressional Page School may apply his or her grade point average for that academic year toward the base as described in paragraph (a) of this subsection. The grade point average shall be reported by the student's Kentucky home high school, based on an official transcript from the school that the student attended during the out-of-state educational experience. The council shall promulgate administrative regulations that describe the approval process for the educational exchange programs that qualify under this paragraph. The provisions in this paragraph shall likewise apply to any Kentucky high school student who participated in an approved educational exchange program or in a Congressional Page School since the 1998-99 school year and maintained his or her Kentucky residency throughout.

(c) 1. Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874 and the requirement that a student graduate from a Kentucky high school, a high school student who completes the KEES curriculum while attending an accredited out-of-state high school or Department of Defense school may apply the grade point average for any applicable academic year toward the base as described in paragraph (a) of this subsection and shall also qualify for a supplemental award under subsection (3) of this section when:

a. His or her custodial parent or guardian is in active service of the Armed Forces of the United States; and

b. The custodial parent or guardian maintained Kentucky as the home of record at the time the student attended an accredited out-of-state high school or a Department of Defense school.

2. The student or parent shall arrange for the out-of-state school to report the student's grade point average each academic year and the student's highest ACT score to the Kentucky Department of Education as required under KRS 164.7885. The Council on Postsecondary Education shall promulgate administrative regulations implementing the requirements in this paragraph, including:
   a. The documentation that the parent shall submit to the council establishing the student's eligibility for the scholarship; and
   b. The assurances that an out-of state institution shall submit to the Kentucky Department of Education for submission of the student grade point average.
3. The provisions in this paragraph shall apply to the 2001-2002 school year and thereafter.

(3) (a) The authority shall commit to provide to each eligible high school student graduating from high school before June 30, 1999, and achieving a score of at least 15 on the American College Test, a supplemental award for the award period beginning in the fall of 1999, based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT Score	Annual Bonus	ACT Score	Annual Bonus
15	$21	22	$171
16	$43	23	$193
17	$64	24	$214
18	$86	25	$236
19	$107	26	$257
20	$129	27	$279
21	$150	28 or above	$300

Subsequent supplemental awards for eligible high school students graduating before June 30, 1999, shall be determined in accordance with the provisions of paragraph (b) of this subsection.

(b) The authority shall commit to provide to each eligible high school student upon achievement after June 30, 1999, of an ACT score of at least 15 on the American College Test a supplemental award based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT Score	Amount	ACT Score	Amount
15	$36	22	$286
16	$71	23	$321
17	$107	24	$357
18	$143	25	$393
19	$179	26	$428
20	$214	27	$464
21	$250	28 and above	$500

The council shall review the base amount of the supplemental award[~~ beginning with the 2001-2002 academic year and~~] each academic year[~~ thereafter~~] and may promulgate an administrative regulation to make adjustments after considering the availability of funds***, except the council shall not decrease the amount of the supplemental awards as provided in this subsection***.

(c) The council shall promulgate administrative regulations establishing the eligibility criteria and procedures for making a supplemental award to Kentucky residents who are citizens, nationals, or permanent residents of the United States and who graduate from a nonpublic secondary school not certified by the Kentucky Board of Education and Kentucky residents who are citizens, nationals, or permanent residents of the United States and who obtain a General Educational Development (GED) diploma within five (5) years of their high school graduating class, and students under subsection (2)(c) of this section who do not attend an accredited high school.

HCR 5, A CONCURRENT RESOLUTION designating September as Character Education Month in Kentucky.

WHEREAS, character education strives to teach and reinforce core ethical values of caring, honesty, fairness, responsibility, and respect for self and others; and

WHEREAS, effective character education programs encompass positive development of the cognitive, emotional, and behavioral aspects of all Kentucky students; and

WHEREAS, character education requires an intentional, proactive, and comprehensive approach to developing and implementing the core ethical values in all aspects of life; and

WHEREAS, character education must be embodied in a caring school community that provides students the opportunity to develop core values by participating in cooperative learning groups, reaching consensus in class meetings and projects, carrying out service learning projects, and reducing fights and other altercations on playgrounds and other recreational settings; and

WHEREAS, character education has direct application to the development of higher level academic skills, including problem-solving, tolerance for other perspectives or points of view, and the development and testing of options and alternatives to resolve conflicts or disputes; and

WHEREAS, the Kentucky General Assembly in the year 2000 declared character education as one of the basic skills Kentucky public schools should ensure students have developed prior to graduation;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The month of September is designated as Character Education month and the Department of Education is encouraged to publicize and promote the efforts of Kentucky public schools to instill the core values of self-sufficiency, altruism, citizenship, courtesy, honesty, human worth, justice, knowledge, respect, responsibility, and self-discipline in Kentucky students.

Representative Adkins moved that the rules be suspended to introduce and act on **HR 3**. The motion was not acknowledged since the Resolution was not in the possession of the House Clerk.

Representative Adkins moved that the rules be suspended to introduce and act on **HR 3**. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 3, by Representatives Adkins, L. Clark, Richards, and Callahan: A RESOLUTION adopting Rules of Procedure for the 2004 Regular Session of the House of Representatives.

Representative Adkins moved the adoption of the following **HR 3**:

HR 3, A RESOLUTION adopting Rules of Procedure for the 2004 Regular Session of the House of Representatives.

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The following Rules of Procedure are adopted to govern the 2004 Regular Session of the House of Representatives:

Rule 1.Hours of Meeting. The House shall meet at times set by the Committee on Committees.

Rule 2.Quorum. A majority of the members elected to the House shall constitute a quorum. If a quorum is not present at the time fixed for a meeting of the House, five members may adjourn or recess from day to day or from time to time and fifteen members may order a call of the House and send for absent members.

Rule 3.Call of the House. Upon a call of the House, the Clerk shall call the roll. Absentees are then only noted, but no excuses shall be made until the full roll is called. The Clerk shall then call the absentees again. Excuses will be heard at this time. The doors of the House Chamber shall then be closed and the absentees not excused by the House may be sent for and arrested by the Sergeant-at-Arms and the House shall determine upon what conditions they shall be discharged from arrest. Members who voluntarily appear shall be immediately admitted to the floor of the House and names returned upon the Journal as present unless the House otherwise directs. Excuses for leaves of absence must receive a consent approval of two-thirds of the members elected.

ORDER OF BUSINESS

Rule 4.Order of Business. The order of business shall be as follows:

1. Invocation.
2. Pledge of Allegiance.
3. Roll Call.
4. Reading and Approval of the Journal.
5. Introduction and Reading of New Bills and Resolutions Introduced by Title and Sponsor.
6. Report of Reference of Bills to Committees.
7. Report of Committees.

8. First Reading of Bills.
9. Second Reading of Bills.
10. Orders of the Day.
11. Motions, Petitions and Communications.
12. Announcements.
13. Adjournment.

No more than 30 minutes shall be allotted to Motions, Petitions and Communications.

Rule 5. Unfinished Business. Unfinished business which was being considered upon adjournment shall have precedence in the class of business to which it properly belongs upon the next succeeding legislative day.

MOTIONS

Rule 6. Reading of Motions. When a motion has been made and seconded, it shall be stated by the Speaker, or, being in written form, it shall be read by the Clerk before debate, amendment or motion concerning it shall be in order.

Rule 7. Withdrawal of Motions. Every oral motion after it has been stated by the Speaker, and every written motion, bill, resolution or other paper, after it has been read by the Clerk, shall be the property and in the possession of the House and shall not be withdrawn without consent of the House. Every written motion, report or measure may be committed or recommitted at the pleasure of the House.

Rule 8. Order of Questions. All questions, whether in Committee of the Whole or in the House, when not privileged questions, shall be propounded in the order in which they were moved, except that in filling blanks the smallest sum and the most remote date shall be put first.

Rule 9. Precedence of Motions. When a question is under consideration, no motion shall be in order except:

1. To call the House when there is no quorum present.
2. To fix the time to which the House shall adjourn.
3. To adjourn.
4. To take recess.
5. To lay on the table.
6. For the previous question.
7. To limit or extend limits of debate.
8. To postpone to a fixed time.
9. To lay on the Clerk's desk.
10. To refer or commit.
11. To amend.
12. To postpone indefinitely.

The above several motions shall have precedence in the order in which they are arranged and the first seven of them shall not be debatable.

A second motion to adjourn, to take a recess, to lay on the table, for the previous question, to limit or extend limits of debate, to postpone to a time certain, to lay on the Clerk's desk, to refer or commit or to postpone indefinitely shall not be in order on the same day, upon the same question, and at the same status unless other business intervenes; provided, however, that amendments may be made to the time to which it is proposed to adjourn, to take a recess or to postpone to a fixed time.

Rule 10. Motion to Adjourn. A motion to adjourn, to take a recess, or a motion to adjourn to a time certain, shall always be in order, except when a member is speaking, while a vote is being taken or when the Committee on Committees is reporting; subject, however, to the limitations set out in Rule 9. A motion to adjourn or a motion to adjourn to a time certain shall be taken by roll call vote, unless the motion is made after the House has reached adjournment in the order of business under Rule 4, in which case adjournment shall be by voice vote unless a roll call is ordered by a majority of the members.

Rule 11. Motion to Table. The adoption of the motion to table, under these rules, defeats the subject matter under consideration. The reconsideration of the motion to table shall require approval of a majority of the members elected.

Rule 12. Previous Question. The previous question may be ordered by a majority of the members elected. On the call of the roll, no member shall be allowed to speak more than three minutes to explain a vote and shall not speak at all if the question is not a debatable question. The effect of the previous question shall be to put an end to debate on any pending amendment; to prevent the offering of additional amendments and to bring the House to an immediate vote upon any amendment that has been called and is in order. Once the previous question has been ordered, and any pending amendment has been voted upon, the opponents of the measure shall have ten minutes, and proponents of the measure shall have ten minutes, before the vote upon the main question.

Rule 13. Motion to Set the Limits on Debate. A motion to set a time limit for debate on a measure, in excess of that permitted under Rule 12, shall be in order unless the previous question shall have been ordered on the measure. The time limit set for debate under this rule shall be allotted by the Speaker evenly between the opponents of the measure and the proponents of the measure. Adoption of a motion under this rule does not prevent the offering of additional amendments.

Rule 14. Motion to Reconsider. A motion to reconsider a vote shall not be in order unless made by a member who voted upon the prevailing side of the question, nor shall that motion be in order unless made within two legislative days in which the House is in session next after the date the vote was taken and the bill or resolution is in the possession of the House; however, the motion to reconsider when coupled with the additional motion to lay that motion upon the table may be made by any member. For purposes of this rule, a member who is recorded as "not voting" on a proposition which failed is considered to have voted on the prevailing side. Procedural motions, such as a motion to lay on the table or lay on the clerk's desk, shall not be subject to a motion to reconsider.

Rule 15. Motion to Lay on Clerk's Desk. The effect of the adoption of a motion to lay on the Clerk's desk under these rules is to place in charge of the Clerk the pending question and everything adhering to it. A motion laid on the Clerk's desk may be taken from the desk and proceeded with at any time in the same order as when laid on the Clerk's desk.

Rule 16. Motion to Strike Out Enacting Clause. A motion to amend by striking out the enacting words of a bill or resolution shall have precedence over a motion to amend; and, if adopted, shall have the same effect as though the bill or resolution were regularly voted upon and rejected.

Rule 17. Motion to Separate Part of a Measure. A motion to commit, recommit, or postpone a part of a measure so as to separate that part of the measure from the remainder shall not be in order.

Rule 18. Postponement of Measure. When a measure shall have been postponed indefinitely it shall not be in order again during the session.

Rule 19. Reading of Pending Papers. Any pending bill, resolution, motion or report shall be read upon the request of any member, with the concurrence of a majority of the members elected to the House, but it shall not again be read on the same day unless so ordered by the House.

Rule 20. Nominations. In all elections a previous nomination shall be made.

MEMBERS

Rule 21. Attendance of Members. No member shall be absent from a session of the House without leave from the House.

Rule 22. Decorum of Members. No member shall designate another member by name.

Rule 22A. Point of Personal Privilege. To be in order, a point of personal privilege must relate to allegations regarding the rights, reputation, or conduct of a member personally, in the member's capacity as a representative, that, if true, would incapacitate them for membership. Members who have the floor after claiming a point of personal privilege shall confine themselves to defending their own rights, reputations, or conduct, and not those of other members. Members wishing to make general comments about pending legislation, media coverage, or other matters that would be out of order if raised as a point of personal privilege shall use Motions, Petitions, and Communications.

Rule 23. Call to Order. If any member, in speech or otherwise, transgresses the rules of order or decorum, the member shall immediately be called to order by the chair and shall be seated. The Clerk shall reduce the objectionable words to writing and read them to the House. After hearing a short explanation from the member called to order, or upon the withdrawal of the objectionable language, the Speaker may permit the member to proceed, or may compel silence upon the member until the matter is disposed of. The ruling of the chair shall be subject to an appeal to the House. A member offending the House shall be liable to censure.

Rule 24. Debate. No member may speak more than once to the same subject until all members desiring to be heard have spoken, but nothing in this rule shall do away with the previous question if then in effect, nor permit debate on an undebatable motion.

No member shall speak more than thirty minutes in the aggregate on any question or measure, at the end of which period, or any portion thereof, the floor shall be returned to the Speaker.

Rule 25. Members Shall Vote at Seats. A member shall vote only when at the member's seat or visibly approaching it.

OFFICERS AND EMPLOYEES

Rule 26. Duties of Speaker. The Speaker shall take the chair every day precisely at the hour fixed for the meeting of the House and on the appearance of a quorum, shall cause the Journal of the preceding day to be read, unless the reading of the same is dispensed with by the House.

The Speaker shall preserve decorum and order and, in the event of any disorder in the gallery or in the House Chamber, may cause the same to be cleared of any persons creating disturbances or disorders.

All writs, warrants, subpoenas or other processes shall be signed by the officer who may be presiding over the House when the paper is issued; and the presiding officer's signature shall be attested by the Clerk, when ordered by a majority of the members.

Rule 27. Appeal from Decision of Chair. The Speaker while presiding may speak to points of order in preference to members. The Speaker shall decide points of order and manner of procedure. If two or more members arise from their respective seats and address the chair, the Speaker shall determine who was first and recognize that member.

Any decision made by the Speaker shall be subject to appeal to the House. Every appeal shall be in writing and signed by at least two members. During the pendency of an appeal to the House from a decision of the chair, the Speaker shall vacate the chair and call the Speaker Pro Tempore to preside. When the Speaker Pro Tempore is presiding on an appeal to the House from a decision of the Chair, no motion or business shall be in order except the motion on appeal from the decision of the Chair, and that motion shall not be debatable.

Rule 28. Speaker Pro Tempore. The House shall elect a Speaker Pro Tempore. The Speaker Pro Tempore shall perform the duties of the Speaker when the Speaker is absent from the House or when empowered by the Speaker to perform the duties of the Chair.

Rule 29. Duties of Legislative Research Commission. The Legislative Research Commission shall have charge of all clerical, technical and procedural matters which relate to legislation including but not limited to: notification of committees of their appointment and business referred to them; keeping a calendar showing such bills as are entitled to their second reading each day, distinguishing between House and Senate bills; supervising the engrossing and enrolling of bills; and such other matters as are assigned by the Committee on Committees.

Rule 29A. Duties of Clerk. The Clerk shall have charge of clerical and administrative functions not assigned to the Legislative Research Commission and shall cooperate with the Commission to facilitate the work of the House. The Clerk shall read to the House papers ordered to be read; call the roll and note the answers of members when a question is taken by yeas and nays; assist the Speaker in taking the count when any vote of the House is taken; attest all writs, warrants and subpoenas issued by order of the House; certify to the passage of all bills and to the adoption of all joint and concurrent resolutions by the General Assembly; and make all reports to the Senate. The Clerk shall perform such other duties as are assigned by the Committee on Committees.

Rule 30. Journal of Proceedings. The Legislative Research Commission shall cause to be kept the Journal of the proceedings of the House. The Commission staff shall note upon the Journal all questions of order, together with the disposition of same, and the dates upon which all bills and resolutions were sent to committee and returned to the House. The House may correct errors in the Journal the day the Journal containing errors is presented to the House. No record which is in the hands of the Commission staff and is required by law to be entered upon the Journal of the House shall be copied by any person until same shall have been entered upon the Journal and that Journal shall have been approved.

Half an hour before the time fixed for the meeting of the House each day, the Commission staff shall be present at the Clerk's desk with the Journal of the preceding session for inspection of any member of the House.

The Journal for each day, as soon as it has been approved by the House, shall be delivered by the Commission staff to the public printer. The Commission staff shall proofread and index the Journal upon return from the printer and make necessary typographical corrections.

Rule 31. Custody of Papers. The Legislative Research Commission shall have custody of all records, minutes, reports, and documents pertaining to legislation, and shall not allow them to be taken from its possession without the leave of the House, unless to be delivered to the chair of a committee to which they have been referred. The Legislative Research Commission shall cause to be enclosed on bills and papers brief notes of proceedings had thereon by the House and preserve the same in convenient files for reference. The Director of the Legislative Research Commission shall implement a policy to provide for the maintenance and distribution of the records, papers, and bills of the legislative branch.

Rule 32. Accounts of Expenditures. The Legislative Research Commission shall keep the accounts for pay and mileage of members, officers and attaches, and for printing and other contingent expenses of the House and Senate.

Rule 33. Printing of House Papers. The Legislative Research Commission shall have supervision and charge of all printing done for the House as certified by the Clerk and the public printer shall print only such documents and other matter as the Legislative Research Commission authorizes. The Clerk shall report to the Speaker every failure to execute printing work correctly and promptly.

Rule 34. Duties of the Sergeant-at-Arms. It shall be the duty of the Sergeant-at-Arms and the Doorkeeper to exclude or remove all persons not entitled to the floor of the House. One hour before convening of the House each day the Sergeant-at-Arms shall announce in a loud, distinct voice: "All persons not entitled to the floor of the House under the rules thereof will now vacate the House Chamber." The Sergeant-at-Arms shall then compel all persons who are not entitled to remain therein to leave the House Chambers and shall prohibit their entry until one hour after the House has adjourned.

Rule 35. Appointment and Conduct of Constitutional Employees. The constitutional employees of the House shall be appointed by election during the regular sessions of the General Assembly and shall serve one year terms or until the election of their successors.

All the constitutional employees of the House, shall, one hour before the meeting of the House each day, report to the Clerk, who shall report to the Committee on Committees whether or not all of the employees are on duty. The Committee on Committees, whenever it deems it necessary, shall report to the House any dereliction of duty.

Rule 36. Other Employees. All other professional, clerical and other services required by the House or its committees shall be furnished by the Legislative Research Commission, upon the request of the Committee on Committees. Employees performing such services shall be under the supervision of the Committee on Committees.

No officer or employee of the House shall receive any fee, tip or compensation from any member and violation of this rule shall be ground for dismissal.

COMMITTEES

Rule 37. Committee on Committees. There shall be a Committee on Committees composed of the Speaker of the House, the Speaker Pro Tempore, the Majority Caucus Chair, the Majority Floor Leader of the House, the Majority Whip, and the Minority Floor Leader of the House. The Speaker shall be Chair of the Committee and the majority of the Committee shall have full power to act on all matters referred to the Committee, either by these rules or by the action of the House. All bills and joint or concurrent resolutions shall, upon their introduction, be automatically referred to the Committee on Committees who shall refer same to the proper Committee not later than the second day in which the House is in session after the date of introduction. Simple resolutions shall be referred to the appropriate committee or the floor of the House, in accordance with Rule 64.

The Committee on Committees shall have supervision and control over all employees of the House, whether elected by the House or provided by the Legislative Research Commission, and the Committee on Committees shall see that they perform all of their duties to the House and the members thereof. The Committee on Committees is empowered to discharge any or all said employees and officers except the constitutional officers of the House. The Committee on Committees shall appoint the members of all standing and special committees and shall fill any vacancies thereon in accordance with Rule 39.

Rule 38. Standing Committees. The following shall be the standing committees of the House:

1. Agriculture and Small Business
2. Appropriations and Revenue
3. Banking and Insurance
4. Economic Development
5. Education
6. Elections, Constitutional Amendments and Intergovernmental Affairs
7. Health and Welfare
8. Judiciary
9. Labor and Industry
10. Licensing and Occupations
11. Local Government
12. Natural Resources and Environment
13. Seniors, Military Affairs and Public Safety
14. State Government
15. Tourism Development and Energy
16. Transportation

Rule 39. Appointment of Committees. The Committee on Committees shall appoint the Chair, Vice-Chairs and the members of all standing and special committees and shall fill any vacancies thereon. In making the appointments to standing committees, the Committee on Committees shall appoint a member with service in the immediately preceding regular session to at least one committee on which the member served in that previous regular session. That appointment to the one committee shall be at the preference of the member, and the Committee on Committees shall be bound by the member's preference for that one committee; provided, however, a member who was a committee chair in the preceding regular session shall select for reappointment the committee the member so chaired if the member wishes to be considered for the chairmanship of that committee; if another selection is made, the member shall not be reappointed chair of the committee which the member chaired in the preceding regular session. A member of the Committee on Committees shall not serve as chair of a standing committee. A chair of a standing committee or statutory committee shall not serve as a member of the Committee on Appropriations and Revenue. The Committee on Committees shall select members of each standing and special committee in proportion to the representation of each political party in the House. The Vice-Chair shall act in the absence of the Chair. The Chair of any committee may appoint subcommittees to conduct hearings or study any matters which have been referred to the committee.

Before the Committee on Committees shall appoint the members of standing and special committees, the number of members on the committee to be appointed shall be announced to the House. At the same time, the Committee on Committees shall announce the number of members of the committee to be appointed from the majority party and the number of members to be appointed from the minority party.

The Committee on Committees shall not appoint more than 29 members to any one standing committee. Every member of the House shall be appointed to at least one standing committee and no member shall be appointed to more than three of the following committees: all standing committees except the Committee on Appropriations and Revenue, the Committee on Education and the Committee on State Government, and the Committee on Committees.

In appointing the membership of standing committees, the Committee on Committees shall consider the predominant business interests or occupation of each member so that the private interests of a majority of a committee's members do not correspond to the jurisdiction of the standing committee.

Rule 40. Jurisdiction of Standing Committees. The Committee on Committees shall refer each bill to the Committee with control over the subject matter. All bills and resolutions on the same subject matter shall be referred to the same committee. The general jurisdiction of the several standing committees shall be:

1. **Agriculture and Small Business:** matters pertaining to crops, livestock, poultry and their marketing; disease control and warehousing; tobacco; stockyards; agricultural cooperatives and marketing associations; agriculture weights and measures; veterinarians; the State Fair; county fairs; all matters not specifically assigned to another committee relating to administrative, regulatory or operating issues which, because of their smaller size, uniquely impact small business.

2. **Appropriations and Revenue:** matters pertaining to the executive budget and other appropriations of state monies; the levying of state and local taxes, including school taxes; property tax rates and assessments; the state debt; revenue bond projects; claims upon the treasury; accounting of state funds by local officers; audits for state purposes; budget and financial administration; payment, collection and refund of taxes.

3. **Banking and Insurance:** matters pertaining to banking; banks and trust companies; consumer loan companies; building and loan associations; credit unions; investment companies; industrial loan corporations; securities; the Blue Sky Law; mortgage guaranty insurance; assessment and cooperative insurance; fraternal benefit societies; hospital service corporations; burial associations; medical and dental service corporations; life, accident, indemnity and other forms of insurance; stock and mutual insurance companies; banking and insurance aspects of the Uniform Commercial Code; interest and usury; pawnbrokers; private credit; consumer credit; sale of checks; installment sales contracts; legal investments; principal and income.

4. **Economic Development:** matters pertaining to commerce, industry, and economic and industrial development not specifically assigned to another committee; economic development planning, international trade and investment; investment companies and industrial loan corporations as they relate to economic and industrial development; recruitment of business and industry; small business matters relative to economic and industrial development; financing of business and industrial development; business regulatory matters, including the Uniform Commercial Code, relative to economic and industrial development; worker training; technology development and application; chambers of commerce; convention centers and publicly owned exhibition and parking facilities; arts and arts exhibition facilities; state, interstate, and national parks and historic sites; travel promotion and advertising.

5. **Education:** matters pertaining to public primary, secondary and higher education; the State Board of Education; the State Department of Education; the powers and duties of local boards of education; conduct of schools; attendance; state support of education; the operation of school districts, teachers' qualifications and tenure; the school curriculum; teachers' retirement; school employees; pupil transportation; school property and buildings; vocational education and rehabilitation; universities and colleges; community colleges; regional education; educational television.

6. **Elections, Constitutional Amendments and Intergovernmental Affairs:** matters pertaining to the proposing of constitutional amendments and the calling of a constitutional convention; ratification of amendments to the United States Constitution; the election of officers to state, local and school board positions; election commissioners, officers and precincts; qualifications, registration and purging of voters; regular elections; primary elections; presidential and congressional elections; special elections to fill vacancies; contest of elections; corrupt practices and election financing; election offenses and prosecutions; voting machines; absentee ballots; intergovernmental cooperation; state-federal relations; interstate compacts.

7. **Health and Welfare:** matters pertaining to human development, health, and welfare; delivery of health services; support of dependents; public assistance; child welfare; adoptions; children's homes; disabled persons; family welfare; aid to the blind; commitment and care of children; mental health; substance abuse; health, medical and dental scholarships; local health units and officers; vital statistics; communicable diseases; hospitals, clinics, and long-term care facilities; health professions; physicians, osteopaths and podiatrists; chiropractors; dentists and dental specialists; nurses; pharmacists; embalmers and funeral directors; psychologists; optometrists, ophthalmic dispensers; physical therapists.

8. **Judiciary:** matters pertaining to contracts; the Uniform Commercial Code; debtor-creditor relations; ownership and conveyance of property; private corporations and associations; competency proceedings; administration of trusts and estates of persons under disability; descent, wills and administration of decedents' estates; domestic relations; support of dependents; statutory actions and limitations; eminent domain; arbitration; declaratory judgments; witnesses; evidence; legal notices; construction of statutes; civil procedure; the Supreme Court, the Court of Appeals, circuit courts and district courts; family courts; jurisdiction, rules, terms, judges, commissioners, selections, districts, qualifications, compensation and retirement; clerks of courts; juries, attorneys; receivers; court reporters; habeas corpus; crimes and punishments; criminal procedure; probation and parole; correctional facilities; civil rights; and juvenile matters.

9. **Labor and Industry:** matters pertaining to the work-force and workplace not specifically assigned to another committee; labor unions; collective bargaining; liquefied petroleum gas and other flammable liquids; electricians; plumbers and plumbing; wages and hours; garnishments; safety and health of employees; child labor; employment agencies; apprenticeship; unemployment compensation; workers' compensation; consumer protection; industrial weights and measures.

10. **Licensing and Occupations:** matters pertaining to professional licensing not assigned specifically to another committee; racing; prize fighting and wrestling; places of entertainment; alcoholic beverage control; private corporations;

cooperative corporations and marketing associations; religious, charitable and educational societies; nonprofit corporations; professional service corporations; cemeteries; barbers and cosmetologists; professional engineers and land surveyors; architects; real estate brokers and agents public accountants; detection of deception examiners; auctioneers; business schools; warehouses; partnerships; trade practices.

11. **Local Government:** matters pertaining to the officers, organization, government and financing of city and county governments; city and county imposed taxes and licenses; special purpose assessment and taxing districts within a city; city revenue bond projects; city indebtedness; incorporation and classification of cities; forms of city government; charter county, urban-county, and consolidated local governments generally; county and special district debt; city and county finances and revenue; the imposition of duties and costs on cities and counties; special districts not assigned to another committee; the powers, duties and composition of fiscal court; compensation of city and county officers and employees; local government civil service systems and local government retirement systems; planning and zoning; interlocal cooperation and consolidation of local government services; county roads; public road districts; city streets and sidewalks; housing; manufactured housing; urban renewal and redevelopment; water districts; acquisition of waterworks and water districts by cities; financing of municipal improvements; urban service districts; fire protection districts; police departments, fire departments and local public safety agencies; issuance of bonds for county and special district projects; sewers; metropolitan sewer and sanitation districts; local air pollution control districts; city and county libraries; library districts; annexation of territory; public works; parks and playgrounds.

12. **Natural Resources and Environment:** matters pertaining to forestry; mining; fish and wildlife resources; soil and water conservation; flood control and water usage; drainage and irrigation; geology and water resources; waterways and dams; oil, gas and salt water wells; state and national parks; drainage districts; water pollution; air pollution; management of waste; protection of the environment; Natural Resources and Environmental Protection Cabinet.

13. **Seniors, Military Affairs and Public Safety:** matters pertaining to senior citizens; eliminating age discrimination; non-public sector retirement; problems of aging; violent acts against the elderly; military affairs and civil defense; national guard; veterans; retention of military bases; veterans' rights, benefits and education; veterans' nursing homes; military memorials and cemeteries; fire prevention and protection; foods, drugs and poisons; pure foods and drugs; trailer park regulations; hotel and restaurant regulations as they pertain to public health; sanitation plants; garbage and refuse disposal.

14. **State Government:** matters pertaining to the sovereignty and jurisdiction of the Commonwealth; the General Assembly, its committees, officers and service agencies; redistricting; the Governor; the Lieutenant Governor; administrative organization; administrative regulations; administrative agencies; Department of Law; constitutional offices; state personnel; state retirement systems; public property and public printing; public officers, their terms, appointments, fees, compensation, removal, oaths and bonds; public information; disaster and emergency services; state and regional planning; libraries; archives and records; public corporations; Commonwealth's attorneys; circuit clerks.

15. **Tourism Development and Energy:** matters relating to tourism and travel promotion and development; state, interstate, and national parks and historic sites; fish and wildlife; small business matters relative to tourism development; hotels and motels generally; hotel and restaurant regulations; billboards; advertising related to tourism development; entertainment establishments; campgrounds; the Tourism Cabinet; privately owned public utilities; rates, permits, certification of convenience and necessity; water district rates; utilities in cities; public utility cooperatives; electric and gas utilities and cooperatives; oil and gas transmission companies; telephone companies and cooperatives; municipal utilities and water works; energy and fuel development; energy waste disposal; Public Service Commission; solar and other renewable energy; hydroelectric and thermo-nuclear energy; and gasohol.

16. **Transportation:** matters relating to airports and aviation; boats and boating; licensing of motor vehicles; operators and trailers; financial responsibility law; nonresident motorists; motor vehicle sales; railroad rates, service and operating regulations; motor carriers; matters pertaining to the construction and maintenance of the state highway system; the Transportation Cabinet; state aid for local roads and streets; the state police; the Federal Highway Safety Law; turnpike authority; state and federal highways; limited access facilities; use of road bond monies; automobile recyclers; highway beautification; bridges, tunnels and ferries; traffic regulations; vehicle equipment and storage; driver training schools.

Rule 41. **Rules Committee.** There shall be a Rules Committee composed of the Speaker of the House, the Speaker Pro Tempore, the Majority Floor Leader, the Majority Caucus Chair, the Majority Whip, the Minority Floor Leader, the Minority Caucus Chair, the Minority Whip, and not less than nine nor more than thirteen members appointed by the Committee on Committees. All bills and resolutions having been reported out of the committee to which referred and having received their second reading shall be referred to the Rules Committee. The Rules Committee may refer any bill or resolution before it back to a standing committee. If a bill which includes incarceration as a possible penalty has been received by the Rules Committee from a standing committee other than the Committee on Judiciary, the bill shall be referred to the Committee on Judiciary. No bill or resolution shall be referred back by the Rules Committee on more than one occasion. All meetings of the Rules Committee shall be open to members of the House and to members of the media only. No electronic devices of any nature, including cameras and recording devices, shall be allowed in the committee room or to be used therein by any person while the Rules Committee is in session. No bill may be kept in Rules Committee for longer than five legislative days. Within that time, each bill must be reported to the floor or referred back to a standing committee.

The Majority Floor Leader shall while the Rules Committee is in session call bills and resolutions for consideration by the Rules Committee. A bill or resolution may be placed for consideration in the first order of business at the next regular Rules Committee meeting by a majority of the membership voting for such consideration.

Each member shall be given an opportunity upon request to appear before the Rules Committee when a bill of which the member is a sponsor or co-sponsor is under consideration including the subsequent vote thereon. No measure shall be posted in the Orders of the Day for final passage except by order of the Rules Committee unless otherwise ordered posted for the next succeeding legislative day by a majority of the members voting. The Rules Committee shall arrange the Orders of the Day so that all measures shall appear thereon for the consideration of the House, but the Rules Committee may not place in the Orders of the Day any bill or other measure in the possession of a standing or special committee of the House. The Rules Committee, prior to each day's session, shall post a notice in a regular place in the House Chamber listing the bills to be considered that day in the Orders of the Day. Should the House not complete any day's Orders of the Day, the bills and resolutions remaining unconsidered shall go to the top of the Orders of the Day on the next day that Orders of the Day are considered.

The Speaker of the House shall be the Chair of the Rules Committee. The Majority Floor Leader of the House shall act for the Rules Committee in calling from the Orders of the Day any bills or resolutions in the order the Majority Floor Leader deems proper and shall be recognized by the Speaker for that purpose during all times that the Rules Committee is in charge of posting the Orders of the Day. The Speaker Pro Tempore shall act as chair in the absence of the Speaker.

Rule 42. Liaison Subcommittees: The Committee on Appropriations and Revenue shall be divided into the following six standing subcommittees of seven members each:

1. Subcommittee on Economic Development and Tourism, Natural Resources and Environmental Protection;
2. Subcommittee on Education;
3. Subcommittee on General Government, Finance and Public Protection;
4. Subcommittee on Human Resources;
5. Subcommittee on Justice and Judiciary;
6. Subcommittee on Transportation.

On four of the subcommittees, as designated by the Committee on Committees, four members shall be members of the Committee on Appropriations and Revenue designated by the chair of that committee, and three members shall be appointed by the Committee on Committees from the membership of one or more of the remaining standing committees of the House. On the remaining two subcommittees, either three or four members shall be appointed by the Committee on Committees from the membership of one or more of the remaining standing committees of the House, and the remaining members shall be members of the Committee on Appropriations and Revenue designated by the chair of that committee. A member of the Committee on Appropriations and Revenue may, however, serve on no more than one standing subcommittee. The chair of each standing subcommittee shall be appointed by the chair of the Committee on Appropriations and Revenue from the membership of that committee on the particular standing subcommittee.

The liaison subcommittee members of a standing subcommittee shall have full voting authority in all matters before a standing subcommittee.

The Committee on Committees may assign the chair of a standing committee as an ex officio non-voting member of a standing subcommittee.

Rule 42A. Budget Review. The standing budget review subcommittees shall notify the membership of the standing substantive committees whose jurisdictional area will be affected by their action of any meetings or hearings and the members of the standing committees may participate as non-voting members.

When the budget review subcommittees have concluded their hearings and formulated their recommendations they shall communicate their recommendations to the affected standing committee or committees who may thereafter file a written response to the recommendations, which response shall be transmitted to the full Committee on Appropriations and Revenue with the subcommittee recommendations.

When the full Committee on Appropriations and Revenue has reported the final budget bill or bills to the floor, it shall notify the affected standing committees of the content of the budget relating to their areas of jurisdiction.

Any budget bill reported out of the Committee on Appropriations and Revenue shall be accompanied by a detailed explanation of modifications of the original budget. The Rules Committee shall not post for passage any budget bill less than five days after the bill has been finally reported out of committee.

Rule 43. Enrollment Committee. The Committee on Committees shall appoint an Enrollment Committee of not more than seven members. The Enrollment Committee shall be responsible for the engrossment and enrollment of bills and resolutions.

Rule 44. Conference Committees. When a House bill has been amended in the Senate and the House refuses to concur in the amendment, or when a Senate bill has been amended in the House and the Senate refuses to concur in the amendment and when neither will recede from that action, the Committee on Committees shall appoint a Conference Committee to meet a like committee from the Senate. The Conference Committee shall confer with the Senate Committee and report back to the House within a reasonable time, in the same manner as reports are made for House bills. The conference report shall make no recommendation other than agreement upon or rejection of the matter or matters in controversy, and shall be voted upon, and, if adopted the bill shall immediately be put upon its final passage.

Should a conference committee report its inability to submit a report, or if either house refuses to adopt its report, each house may appoint a free conference committee, consisting of three or more members. A free conference committee shall propose no new appropriation or any appropriation above the level originally designed by either chamber. The free conference report shall be voted on, and if adopted, the bill shall immediately be put upon its final passage.

A conference committee or free conference committee report shall be signed by a majority from each house or it shall not be in order.

Where both majority and minority conference or free conference reports are submitted, a motion to adopt the majority report shall first be considered and a motion to adopt a minority report shall not be in order unless a motion to adopt the majority report fails. Once the majority or minority report is adopted, the bill shall immediately be put upon its final passage.

Except for report of disagreement, the question of consideration of the report of a conference committee or a free conference committee shall not be in order on the same legislative day as distribution of copies of the report together with a staff analysis of the report to the members of the House.

Rule 44A. Majority and Minority Caucuses. The Majority Caucus of the House of Representatives shall consist of all House members of majority party affiliation. The Minority Caucus of the House of Representatives shall consist of all House members of minority party affiliation. The majority and minority caucuses of the House of Representatives shall be committees, other than standing committees, of the House of Representatives and General Assembly.

Rule 45. Meetings of Committees. No committee except the Committee on Committees, the Enrollment Committee and a Conference Committee between the House and the Senate shall sit while the House is in session, unless by consent of the House. The Committee on Committees and Enrollment Committee may report at any time except during roll call or while a vote is being taken.

The Committee on Committees, in conference with committee chairs, shall schedule a definite time and place for the regular weekly meetings of each committee, and that schedule shall be posted in the House Chamber and published in the Legislative Record. A committee shall meet at the regular weekly scheduled time and place so long as business is pending before the committee. The Chair or a majority of any committee may call a special meeting in addition to those regularly scheduled.

The Chair shall keep a record of the attendance of members at meetings, which record shall be filed with the Clerk.

The Director of the Legislative Research Commission, under the direction of the Committee on Committees, shall assign a secretary to each committee and provide any professional, clerical or other employees required by any committee.

The Committee on Committees shall meet on call of the Speaker or on call of a majority of the members of the Committee on Committees.

Rule 46. Committee Reports. No bill or resolution shall be considered by the House except on report of committee. A standing committee may report a bill or resolution in the following manner:

"With the expression of opinion that the same should pass," or

"With the expression of opinion that the same should pass, with the committee amendment attached thereto," or

"With the expression of opinion that the same should pass, with the committee substitute attached thereto," or

"With the expression of opinion that the same should not pass."

Rule 47. Standing and Special Committee Reports. It shall require a majority of the committee membership to report a bill or resolution. The chair shall keep a record of the vote of each member on the disposition of each bill, and shall report the total vote on each side to the House. The chair may sign reports on behalf of a majority of the committee members. The chair's signature shall attest to the action of a majority, but shall not be construed as the chair's personal approval or disapproval of the bill.

A committee report may be accompanied by a minority report, signed by those members who have dissented from the committee's report, and it shall be in order to move the adoption of the minority report as a substitute for the committee's report when the committee offers its report. It shall require a majority of the members elected to adopt the minority report. The committee's report shall always be read before the minority report is read. Where both majority and minority reports are submitted, a motion to adopt the majority report shall first be considered, and a motion to adopt a minority report shall not be in order unless a motion to adopt the majority report fails.

Rule 48. Discharge Petition. Whenever a committee fails or refuses to report within a reasonable time a bill submitted to it, a member may sponsor and file with the Clerk a written request, signed by twenty-five or more members, to call the same up for consideration on the next succeeding legislative day after the filing of the request. The effect of this petition shall be to bring before the House the question of whether the committee to which the bill has been assigned has held the bill for an unreasonable time. Upon the motion of the member sponsoring the request, and if a majority of the members elected to the House concur that the bill has been held an unreasonable time, the bill shall be considered as though it had been regularly reported, and sent to the Rules Committee.

Rule 49. Procedure in Committee. The rules of procedure in the House shall be observed in committee insofar as the same are applicable. The committee chair, or the committee by majority vote in a regularly called meeting, shall post at least three calendar days prior to their consideration the bills and resolutions to be considered by the committee at its next meeting, provided that no bill or resolution shall be posted by the chair or the committee by a majority vote unless and until a request for posting form has been filed with the committee chair or secretary and approved by the committee chair as containing satisfactory information. No measure shall be considered except those posted, unless the measure is one which has been recommitted to the same committee from which it was previously reported with a favorable expression. A list of the measures to be considered shall be filed with the Clerk at least three calendar days prior to the meeting. In the case of prefiled bills receiving a favorable expression from the interim joint committee to which they were assigned, posting by the chair or the committee shall occur during the first week of the session, and those bills may be considered by the appropriate committee during the first three weeks of the session. No posting request shall be required for those prefiled bills.

BILLS AND RESOLUTIONS

Rule 50. Form of Bills. All bills introduced shall be printed on the computerized bill preparation system of the Legislative Research Commission, and none otherwise prepared shall be accepted for introduction. Bills shall be offered as seven distinctly legible copies. Identical bills for introduction in the other chamber may be exact reproductions of original bill provided one copy is authenticated by the Director of the Legislative Research Commission as the original to be introduced in the other chamber. The original shall be the official bill, and shall be retained by the Legislative Research Commission staff for the use of the House until engrossed and sent to the Senate. A replacement original of a bill, generated pursuant to these Rules, shall thereafter be considered the original and official bill. One copy shall be used by committees; three copies shall be for the use of the media and shall be given to a person designated by the media; and one copy shall be retained by the Legislative Research Commission for its work file. Each copy shall be backed with a protective cover, as provided for this purpose by the Legislative Research Commission. The title of the bill, or a portion thereof, and the signature of the member introducing the bill shall be placed on each cover.

In all bills, as introduced and as printed, any new matter contained therein shall be underscored; and when an amendment proposes the elimination of matter in an existing law, that elimination shall be indicated on the bill by placing the material proposed to be eliminated in brackets, and by striking through the words to be eliminated with a single line so as not to render those words illegible. In any bill seeking to repeal existing sections of the Kentucky Revised Statutes, the sections sought to be repealed shall be identified by way of inclusion of the headnotes applied to each section as it appears in the Kentucky Revised Statutes. All bills recommending or reauthorizing a study by an interim committee, task force, or special committee of the Legislative Research Commission shall include the following language: "Provisions of this statute to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date." The Legislative Research Commission staff shall see that all bills introduced have been prepared through the computerized bill preparation system of the Legislative Research Commission.

Rule 51. Introduction of Bills. A member may introduce bills and resolutions by filing them with the House Clerk on the floor or in the Clerk's office at any time the office is open. The member filing the bill or resolution shall be the primary sponsor of the bill or resolution, and with the sponsor's permission, one member may sign the bill as primary co-sponsor. Other members may co-sponsor the bill or resolution only with the sponsor's permission and by filing the proper papers with the Clerk. A co-sponsor may withdraw co-sponsorship of the bill or resolution with or without the sponsor's permission by filing the proper papers with the Clerk. Bills and resolutions filed after the House has concluded the Introduction and Reading of New Bills, in Rule 4, Order of Business, shall be considered as having been introduced the next succeeding legislative day. The House Clerk shall number bills in the order received and transmit a copy immediately after introduction on the House floor to the Committee on Committees for reference to committee.

In a regular session in an even-numbered year, no bill or resolution having the force of law shall be introduced after the thirty-eighth legislative day of the session. In a regular session in an odd-numbered year, no bill or resolution having the force of law shall be introduced after the fourteenth legislative day of the session.

The last two legislative days preceding the veto recess shall be reserved by the House exclusively for the business of concurring in amended House bills.

Rule 52. Fiscal Statement. A sponsor of a bill which, if enacted, would affect the revenues or expenditures of state government generally, may at any time by request cause the staff of the Legislative Research Commission to analyze and prepare a fiscal statement for the measure. The staff of the Legislative Research Commission shall analyze and prepare a fiscal statement for any bill which, if enacted, would fiscally affect local governments through the imposition of a local mandate; constitute a mandated health benefit; change the financial liability of any public retirement system administered by an agency of state government; or fiscally affect state or local corrections services in a significant manner, including any bill which would modify or create a criminal penalty or otherwise affect the population of a correctional system or facility.

The chair of the committee to which a bill has been referred may require that a fiscal statement be attached to the bill prior to posting. The chair or a majority of the committee to which a bill has been referred may require that a fiscal statement be attached to the bill, or amendment thereof, prior to final committee action.

Members may require, by majority vote, that a fiscal statement be attached to any bill or amendment on the Orders of the Day relating to fiscal matters herein described. In that instance, the fiscal statement shall be attached to the bill, or amendment thereof, prior to final consideration of the bill on the floor of the House.

Rule 53. Fiscal Statements for Amendments. Any member proposing an amendment which relates to fiscal matters described in Rule 52 may cause a fiscal statement to be prepared. A fiscal statement shall be considered a public document upon introduction of the bill or amendment for which it was prepared.

Rule 54. Reference of Bills. The Committee on Committees shall refer all bills to the proper standing committee not later than the second day in which the House is in session after the date of introduction. When a House bill has been amended in the Senate and has been returned to the House for concurrence in the amendment, it shall be referred to the Rules Committee. In these instances, the Clerk shall distribute copies of the bill and its proposed amendment to each member of the Rules Committee. The Rules Committee may post these bills to the Orders of the Day for consideration of the amendment, and final passage, giving precedence to these bills over all other matters posted. When bills with amendments for concurrence are reached in the Orders of the Day, the Speaker shall first put the question of concurrence in the amendment, whereupon if that is favorable, the bill shall be put immediately upon its final passage. Bills originating in and passed by the Senate when reported to the House shall be referred to the Committee on Committees and shall take the same course as other bills.

Rule 55. Printing of Bills. Upon receipt of a bill, the Legislative Research Commission shall examine the form of the bill to ensure that it is free from errors of form or typography and has been assigned the proper KRS section or chapter numbers. If a formal change is necessary the Commission shall request the sponsor of the bill to sign a form approving the specified changes. If a bill is found to be correct, or corrections have been approved, the Commission shall authorize its printing.

The Legislative Research Commission shall have printed at least 200 copies of each bill or resolution carrying the force and effect of law introduced in the House and of each bill or resolution carrying the force and effect of law acted on by the Senate and reported to the House. Bills shall be printed in the order in which they are introduced and shall be distributed to members immediately upon receipt from the printer.

Rule 56. Readings of Bills. If a bill *is*[~~ be~~] reported with the expression of opinion that it should not pass, a vote may then be taken on whether it shall be read at length and be placed on the Calendar, if a majority of the members elected to the House shall concur therein. When reported favorably by the committee, the bill shall then be given its first reading at length and shall be placed by the Commission staff upon the Calendar to be kept by the staff, and shall then be entitled to its second reading the next succeeding legislative day.

Every bill shall be read at length on three different legislative days; but the second and third readings thereof at length may be dispensed with by a majority of all the members elected to the House and the bill read by its title.

Rule 57. Calendar; Consent Calendar. (1) In order to reduce the time required for final passage of bills posted in the Orders of the Day, a consent procedure for the consideration of uncontested bills shall be established and designated as follows:

(a) The Commission staff shall keep a Regular Calendar and a Consent Calendar for each legislative day showing the bills receiving their second reading.

(b) The Commission staff shall also keep a Regular Orders and a Consent Orders showing bills posted for final passage by the Rules Committee.

(2) Bills reported by a Standing Committee with a regular "should pass" or "should pass with committee amendment/substitute attached" recommendation shall be shown in the Regular Calendar on the day on which they are entitled to a second reading.

(3) A Standing Committee may at the time of favorably reporting any House or Senate Bill, recommend that it be placed in the Consent Calendar provided:

(a) The primary sponsor has so requested when it is a House Bill, and

(b) The bill receives a "should pass" or "should pass with committee amendment/substitute attached" recommendation from the committee by a unanimous vote of the members present.

Any House or Senate Bill thus reported shall be first placed in the Consent Calendar on the day on which it is entitled to a second reading and shall continue to be shown in that Calendar until taken therefrom by the Rules Committee and posted in the Consent Orders. Bills receiving a second reading should be so designated to distinguish them from bills which have already received their second reading.

(4) A certificate shall be attached to each bill recommended for the Consent Calendar showing the request of the sponsor of any House Bill, and the unanimous recommendation of the members present signed by the Chair.

(5) After a sufficient number of bills have accumulated in the Consent Calendar, the Rules Committee may post any or all of those bills to the Consent Orders for a day certain. On that day, the Consent Orders shall be called before the Regular Orders.

(6) Upon the call of the Consent Orders each bill in those Orders shall be given a third reading by title only. The Speaker shall then allow a reasonable time for questions from the floor and any explanation necessary by the sponsor or committee chair. Consent Order bills may not be amended from the floor.

(7) The Commission staff shall attach a roll call to each bill in the Consent Calendar and any member may at any time prior to passage of the Consent Orders record with the Commission staff a "nay" or "pass" vote on any bill within the Consent Calendar or Consent Orders.

(8) Upon the call for the question on the Consent Orders, the Speaker shall instruct the Commission staff to announce the "nay" and "pass" votes previously filed on each bill in the Consent Orders. All other members present in the chamber on the day and at the time the Consent Orders are called shall be considered as having voted "aye" and the roll call attached to each bill shall so reflect as the final vote.

(9) Upon the written petition of any five members objecting to the placement or retention of any bill in the Consent Calendar or Consent Orders, the bill shall cease to be so considered and shall be placed in the Regular Calendar or Regular Orders as provided in these rules.

Rule 58. Orders of the Day. When a bill has had its second reading it shall be placed in the Orders of the Day, or be recommitted, and when next reached in the House it shall be ready for recommitment, or to be read a third time and placed upon its passage, and the Speaker shall so announce to the House.

A bill may be recommitted or amended in accordance with these rules at any time before its passage. Bills shall be placed in the Orders of the Day in the order in which they have been given their first reading, and shall be taken therefrom in accordance with Rule 41. When a House bill is in the Orders of the Day, it shall be in order on motion of the author to substitute for it an identical Senate bill which is in the Calendar of the House.

No bill shall be taken from the Orders of the Day unless it shall have been printed and previously distributed to members. ***No bill, amendment, or committee substitute relating to congressional or legislative redistricting shall be taken from the Orders of the Day unless it shall have been verified by Legislative Research Commission staff using the Commission's redistricting software, for plan integrity and geographic integrity. The verification shall be evidenced by the Legislative Record summary notation "PLAN INTEGRITY VERIFIED" and the "Geographic Integrity Verified" notation on amendments.***

Rule 59. Final Passage. When a House bill has been amended in the Senate and the House has concurred in the amendment, or a Senate bill has been amended in the House, but the Senate refuses to concur, and the House recedes from its amendment, the bill shall immediately be placed upon its passage.

Rule 60. Amendments to Bills. All amendments offered shall be on sheets with a proper heading printed in black, furnished by the Commission staff, and shall bear the signature of the members offering the same. An amendment prepared for one member but signed by another shall be considered the amendment of the member signing the amendment. All amendments shall give the proper page and line of the printed bill. An original and six copies of each amendment shall be introduced. No amendment shall be in order that is not germane to the matter under consideration and unless it shall have been printed and previously distributed by the Clerk to members at least one legislative day prior to consideration of the bill or resolution; and the Speaker, when the question is raised, shall rule as to the admissibility of the proposed amendment, subject to appeal to the House.

Any amendment to a bill under consideration containing the substantial text of the language of any other bill introduced during the session shall require for its consideration the affirmative vote of a majority of the members of the House. The commission staff shall cause those amendments to be identified when the bill proposed to be amended thereby is posted on the Orders of the Day. When a question is raised as to the identity of the proposed amendment containing the substantial text of any other bill introduced during the session, the Speaker shall rule thereon, subject to appeal to the House.

A committee substitute, upon its adoption, shall be considered as the original bill for purposes relating to the permissible degree of further amendment of the bill.

A proposal to amend the title of a bill shall be by separate title amendment. The question of adoption of an offered title amendment for a bill shall be presented to the body immediately after adoption of the bill.

A proposal to amend the Constitution of Kentucky shall be introduced as a bill, and no such proposal shall be in order if it is offered as an amendment to any bill.

If a proposed floor amendment to a branch budget bill will result, if adopted, in a loss of revenues or an increase in expenditures for a budget unit, the amendment shall specify by budget unit the amount and source of funds that will offset the loss of revenues or specify the budget unit or other source of funds that will support the increased expenditures. If a budget unit or other source of funds is specified, the amendment shall include all necessary language to effect the changes. It shall be out of order for a floor amendment to a branch budget bill to: (a) specify in general language that funds to support the change shall come from broadly defined sources, such as the budget of a particular cabinet, branch of government, or multiple unrelated budget units, unless the effect on each of these is specifically defined by program and amount; (b) require or permit any other branch or unit of government to determine which specific programs would be affected; or (c) reduce the Budget Reserve Trust Fund.

Rule 61. Engrossment of Bills. Every House bill and joint resolution, together with the amendments thereto, which has been passed by the House and not subject to further amendment or motion, shall be engrossed by the Commission staff. The Clerk shall endorse thereon the day of passage or adoption. The bill shall be delivered to the Senate in open session by the Clerk or someone designated by the Clerk, and Senate concurrence asked therein. A like procedure shall be observed toward Senate bills.

When engrossing a bill, the Commission staff may incorporate amendments by means of typing or by generating a replacement original of the bill through computerized process.

Rule 62. Enrollment of Bills. All House bills and resolutions which have passed both the Senate and the House shall be delivered by the Commission staff to the Enrolling Clerk, taking a receipt therefor, in the order in which passed. The Commission staff shall keep the number and title of all bills and joint and concurrent resolutions carrying the force and effect of law, passed by the House of Representatives and the Senate in a suitable record book attesting the fact and date of passage.

If a bill which originates in the House is amended by the Senate and the House concurs in the amendments proposed and adopted by the Senate, the Commission staff shall engross those amendments in the original copy of the bill by typing or may generate a replacement original copy of the House bill through computerized process, before delivering the bill to the Enrolling Clerk of the House.

In cases of extreme emergency and during the last three days prior to sine die adjournment, where no correct printed copy can be produced, the Enrolling Clerk may enroll the bill or resolution by typing the same.

The original bill or resolution or replacement therefor, if applicable, and an enrolled copy shall be delivered to the Committee on Enrollment. The Enrolling Clerk shall certify that each is in the exact form as finally passed prior to their delivery. The Committee on Enrollment and the Enrolling Clerk shall jointly compare the original bill with the enrolled copy, and if the enrollment is ascertained to be correctly done, the Committee shall report the same to the House. If any bill or resolution is found not correctly enrolled, it shall be returned to the Enrolling Clerk to be properly enrolled and delivered to the Committee on Enrollment as is first provided herein.

Rule 63. **Signing of Bills.** The Enrolling Clerk of the House shall deliver the original and enrolled copies of House bills and resolutions signed by the Speaker to the Chair of the Enrollment Committee of the Senate for presentation to the President of the Senate for the President's signature. When signed by the President of the Senate, the enrolled bill or resolution and the original copy thereof shall be returned by the Enrolling Clerk to the Clerk of the House who shall present the enrolled bill or resolution to the Governor for the Governor's approval and take a receipt for same.

Rule 64. **Resolutions.** Resolutions having the force and effect of law shall be treated and considered as bills in all respects under these rules. A simple resolution expressing the will of the House shall upon its introduction be automatically referred to the Committee on Committees, which may refer it to the floor if it is honorary, benevolent, and does not direct further action; otherwise, it shall be referred to a standing committee. Simple resolutions referred to a standing committee may be considered for adoption only after receiving a recommendation from a standing committee and being posted for passage by the Rules Committee. A resolution shall not be accepted for introduction if offered in lieu of a legislative citation. No resolution shall be considered unless it shall have been distributed to all members. All resolutions recommending or reauthorizing a study by an interim committee, task force, or special committee of the Legislative Research Commission shall include the following language: "Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date." All resolutions recommending or reauthorizing a study, or which recommend or reauthorize creation of a task force or special committee of the Legislative Research Commission shall be concurrent or joint resolutions.

Rule 65. **Legislative Citations.** For the purpose of extending the commendations, condolences or congratulations of the General Assembly to a particular person, or to recognize a particular event or occasion, there may be issued a "Legislative Citation." Citations may not be used for procedural matters, matters of a controversial or partisan political nature, nor in place of resolutions memorializing the U.S. Congress, but only when appropriate to express the feeling of the House or of the General Assembly with reference to a person or event.

Each citation shall be prepared in single copy on an artistically designed form, suitable for framing, shall bear the signature of the sponsor and the name of the person or event cited, and upon adoption shall be spread at length upon the Journal. Citations shall be considered in the order of business "Motions, Petitions and Communications."

VOTING

Rule 66. **Roll Call.** Any member, with a second, may require a roll call on any matter pending before the House. The names of members shall be arranged alphabetically when taking a yea and nay vote.

Any time these rules require a roll-call vote, or a yea and a nay vote of the members, that vote may be taken by either a voice roll call or the electrical voting system, as ordered by the Speaker.

The Speaker, before each roll-call vote is taken, shall instruct the Clerk to sound the warning chimes installed in that part of the Capitol assigned to the use of the House.

During a roll call any one member, with a second, may request and be afforded a delay of two minutes prior to the closing of the roll. Only one such motion shall be observed during any one roll call.

Rule 67. **Electrical Voting System.** When the House is ready to vote upon any question requiring a roll call, and the vote is to be taken by the electrical roll call system, the Speaker shall announce:

"The question is on the passage of (designating the matter to be voted upon). All in favor of the question shall vote 'yea,' and all opposed shall vote 'nay.' The House roll is now open for voting."

The Speaker shall recognize any member who rises for the purpose of explaining a vote. No member shall be allowed to speak more than three minutes to explain a vote, and shall not speak at all if the question is not a debatable question.

When sufficient time has been allowed the members to vote and to explain their vote, the Speaker shall announce: "Have all voted?" "Does anyone desire to change their vote?" And after sufficient pause shall lock the roll call system and instruct the Clerk to record the vote. It shall be the responsibility of each member to determine the accuracy of the member's individual vote as registered opposite the member's name on the electrical roll call board and advise the Speaker of any desired change before the roll call system is locked.

The Clerk shall immediately start the recording equipment, and when completely recorded, shall present the result to the Speaker who shall announce same to the House. The Clerk shall enter upon the Journal the result in the manner provided by the rules of the House.

At the same time the vote is recorded by the electric recording equipment an original and five duplicate roll call sheets shall be made showing the vote, two of which duplicates shall be for use of the press, and one copy shall be furnished to the Legislative Research Commission.

Rule 68. Voting for Others Prohibited. No member shall vote for another member, nor shall any person not a member cast a vote for a member. In addition to any penalties as may be prescribed by law, any member who shall vote or attempt to vote for another member may be punished in a manner as the House may determine. If a person not a member shall vote or attempt to vote for any member, that person shall be barred from the floor of the House for the remainder of the session and may be further punished in any manner as the House may deem proper, in addition to the punishment as may be prescribed by law.

Rule 69. Pairing. All pairs announced in the House shall be entered on the Journal.

Rule 70. Adjournment Extended During Roll Call. When the roll is being called in taking a yea and nay vote, and the hour of an adjournment arrives, the same shall stand extended until after the yea and nay vote has been completed and the result announced.

PRIVILEGE OF THE FLOOR

Rule 71. Persons Entitled to the Floor. No person shall be permitted upon the floor of the House when in session and two hours before and after the House is in session except the present members of the General Assembly and all officers and employees of the General Assembly. Bona fide news media correspondents shall be admitted to the floor when recommended by the Committee on Committees and shall be governed by the rules of the House and assigned by the Committee on Committees to a media section specifically set aside for them.

A special section of the gallery shall be reserved for the families and guests of members, who shall be admitted upon presentation of an identification card. Other persons shall be admitted to that part of the gallery not reserved for members' families. Members may submit the names of guests to the Clerk, who shall read the names to the House. Members shall not introduce guests from the floor.

Rule 72. Restriction of lobbying and access to the House Chambers and office areas. No person shall engage in lobbying for or against any measure while the House is in session, or in recess, in any of the corridors or passages or in any of the rooms in that part of the Capitol assigned to the use of the House, and no registered lobbyist shall enter that part of the Capitol while the House is in session. This rule shall not be construed to prohibit the use of the corridors or passages in going to and from the House gallery by any person.

A sign, poster, or any other object, the purpose of which can be reasonably construed to indicate support or opposition to any measure before the House, and which is large enough to be generally visible from the House floor, shall not be permitted in the gallery.

Only authorized persons shall be allowed access to the office areas assigned for use of the members and staff of the House. For the purposes of this paragraph, "authorized person" means a member of the General Assembly, an employee of the General Assembly or Legislative Research Commission, or a person having obtained specific access authorization from a member or employee. For the purposes of this paragraph, "office areas" means the fourth floor of the Capitol and the third and fourth floors of the Capitol Annex.

Rule 73. Restrictions. For purposes of this rule, "material" shall mean any letter, report, writing, article, booklet, pamphlet, image, photograph, object, or any other item, including any physical object or electronic transmission containing audio, video, or electronic communication, which is requested to be placed upon either the desk of a member on the House floor or in a member's office in the Annex. This material shall not be distributed unless the party interested in the distribution of the material is clearly and physically identified on the material to be distributed. All this material shall conform to accepted public taste, shall contain no matter appealing to prurient interest or without redeeming social value, and shall uphold the dignity of the legislative process. Material originating from the general public shall be delivered to the administrative offices of the Legislative Research Commission or the Clerk of the House and shall upon direction of the Clerk, after inspection, be placed on the members' desk in the Capitol Annex provided the following conditions are met:

(1) Unless 100 copies are provided, all material should be individually addressed to each member expected to receive a copy;

(2) If several pages or items are to be provided to each member, they should be securely fastened or placed together in an envelope; and

(3) Sufficient copies of all material should be provided; staff shall not make additional copies of material.

Material that may be distributed by the Clerk in the House Chamber is restricted to official communications relating to pending legislation or the operation of the House, material sent by a member clearly identified on the face of the material or its attachments to any other member, or other material as designated by the Speaker's Office. The Sergeant-at-Arms shall be charged with the duty of ensuring that no individual other than employees of the House under the direction of the Clerk or House members shall cause materials of any nature to be distributed in the House Chamber. Questions as to the propriety of materials shall be referred to the Committee on Committees for resolution. Any material distributed by unauthorized individuals shall be collected from the members' desks and treated as litter, and any material submitted but not distributed that is unclaimed after one week shall be discarded. Material which is received via e-mail or received on diskette with a request for distribution electronically by LRC staff shall be refused or returned to the sender. Nothing in this rule restricts the right of any person to communicate directly with any member, either electronically or through the United States mail.

RULES

Rule 74. **Mason's Manual.** In the absence of a specific rule of the House, *Mason's Manual of Legislative Procedure* shall govern the proceedings, except that in all cases where general parliamentary law provides for a rule of two-thirds, it shall mean in this House a majority of all members elected thereto.

Rule 75. **Change of Rules.** The rules of the House, after their adoption shall not be altered, changed, amended, suspended or interrupted, unless the same be done by a majority of the members elected to the House. No rule shall be suspended for the purpose of any action affecting the passage of a bill or resolution carrying the force of law unless the rule is suspended by a majority of the members elected to the House and by a roll call vote. Whenever a rule is suspended, no measure shall be considered under suspension except the measure or measures in whose favor the suspension was invoked, and only for that day.

There being no objection, **HR 3** was adopted.

Representative Hoover moved that the rules be suspended to grant floor privileges to Lt. Governor Steve Pence. Agreed.

Motions, Petitions, and Communications

Representative Baugh moved the adoption of the following **Legislative Citation No. 1**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory and honor of Christine Tinsley Rowe Hollins of Auburn, Kentucky, and joins with Representative Sheldon Baugh in expressing deepest sympathy to the Tinsley, Rowe, and Hollins Families and all who share in the profound loss on the passing of this esteemed citizen. The daughter of the late Thomas E. and Pearle Turner Tinsley, she was preceded in death by her first husband, Ellis G. Rowe; second husband, Roger H. Hollins; sons, James and Ellis; and, step-daughter, Betty. She is survived by her beloved children, John, Christine, and Polly; step-children, James, Laura, Mary, Della, and Zella; daughters-in-law, Donna, Nancy, and Carrol; sons-in-law, Claude and Randal; step-son-in-law, Walter; twenty-two grandchildren; twenty-eight great-grandchildren; and, two great-great-grandchildren; and, a host of other family members, friends and loved ones. An active member of her community, Mrs. Hollins was a member of the American Legion Auxiliary, where she was a past Kentucky State President and founding member of local unit 258; a founding member of the Auburn Womens Club and Eastern Star; director of Auburn Teen Town; a longtime Gray Lady with the American Red Cross; a former correspondent with the News-Democrat & Leader; and, a faithful member of the Russellville DAR and the Gasper River Cumberland Presbyterian Church. This esteemed citizen is remembered on this day for the many and generous contributions she made to her family and community. Christine Tinsley Rowe Hollins will be deeply missed by all those whose lives were touched by her remarkable presence. Done in Frankfort, Kentucky, this seventh day of January, in the year two thousand and four.

Legislative Citation No. 1 was adopted without objection.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 212, by Representative Bather: AN ACT relating to peace officers.

HB 213, by Representative Burch: AN ACT relating to blood donations.

HB 214, by Representative Burch: AN ACT relating to the Kentucky Early Intervention System.

HB 215, by Representative Bather: AN ACT relating to consumer loans.

HB 216, by Representative Bather: AN ACT relating to an electronic health network to simplify administrative transactions.

HB 217, by Representative Denham: AN ACT relating to school health.

HB 218, by Representative Burch: AN ACT relating to children's health.

HB 219, by Representative Feeley: AN ACT relating to children's health.

HB 220, by Representative Nunn: AN ACT relating to Medicaid.

HB 221, by Representative Brinkman: AN ACT relating to business entities.

HB 222, by Representatives Kerr and Walton: AN ACT relating to real property.

HB 223, by Representatives Kerr and Walton: AN ACT relating to crimes and punishments.

HB 224, by Representatives Walton and Kerr: AN ACT relating to expulsion of students.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 3, Representative Edmonds

HB 13, Representatives Collins, Crall, Draud, Gooch, Hall, S. Lee, Marcotte, Napier, and Rand

HB 16, Representative Hall

HB 28, Representatives Hall and Mobley

HB 31, Representative Embry

HB 43, Representative Mobley

HB 52, Representatives J. Adams, R. Adams, Adkins, Bather, Brinkman, Burch, Callahan, L. Clark, P. Clark, Coleman, Damron, DeWeese, Graham, Hoffman, Horlander, J. Lee, Marzian, McKee, Meeks, Miller, Moberly, Nelson, Nunn, Pasley, Richards, Riggs, Siler, Wayne, and Weaver

HB 63, Representatives Denham and Hall

HB 64, Representatives Denham and Hall

HB 65, Representatives Denham and Hall

HB 90, Representative Embry

HB 99, Representatives Edmonds and Mobley

HB 105, Representatives J. Adams, Bather, Brinkman, Burch, L. Clark, P. Clark, Coleman, Crimm, Marzian, Meeks, Miller, Moberly, Nelson, Nunn, Siler, Wayne, and Weaver

HB 113, Representative Embry

HB 130, Representative Denham

HB 171, Representative Harmon

HB 195, Representative Embry

HCR 6, Representatives Hall and Rand

HCR 14, Representatives Embry, Hall, and Rand

HCR 20, Representative Hall

HJR 11, Representative Weaver

HJR 12, Representatives Draud, Kerr, Reinhardt, Simpson, and Walton

HJR 19, Representative Embry

HJR 42, Representative Hall

HR 47, Representatives J. Lee and Pasley

HR 48, Representatives J. Lee and Pasley

HR 49, Representatives J. Lee and Pasley

HR 50, Representatives Denham, J. Lee, Pasley, and Rand

HR 51, Representatives J. Lee and Pasley

HR 52, Representatives J. Lee and Pasley

Announcements

The following meetings were announced:

Committee on Economic Development - Thursday, January 8, 2004

Committee on Elections, Constitutional Amendments, and Intergovernmental Relations - No meeting Thursday, January 8, 2004

Committee on Agriculture and Small Business - 12 Noon, Room 129, Thursday, January 8, 2004

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 2:00 p.m., Thursday, January 8, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 2:00 p.m., Thursday, January 8, 2004, was adopted by voice vote.

THURSDAY, JANUARY 8, 2004

THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend David Hinson, First Baptist Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Gooch and Bruce.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 7, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

The Secretary of State filed the following certificate with the House Clerk.

I, Trey Grayson, Secretary of State of the Commonwealth of Kentucky, do hereby certify that, according to the records in the Office of the Secretary of State of the Commonwealth of Kentucky and the best information obtainable, the attached is a true and correct list of the duly elected and qualified members of the House of Representatives of the General Assembly of the Commonwealth of Kentucky.

Given under my hand and seal of office, this 5th day of January 2004.

1st District
Charles R. Geveden
800 N. 6th Street
Wickliffe, KY 42087

2nd District
Fred Nesler
400 State Route 440
Mayfield, KY 42066

3rd District
Frank Rasche
2929 Jefferson Street
Paducah, KY 42001

4th District
Mike Cherry
803 S. Jefferson Street
Princeton, KY 42445

5th District
Robert "Buddy" Buckingham
1717 Magnolia Drive
Murray, KY 42071

6th District
J. R. Gray
3188 Mayfield Highway
Benton, KY 42025

7th District
John A. Arnold, Jr.
1301 North Lee
Sturgis, KY 42459

8th District
John W. Adams
6255 Huffman Mill Road
Hopkinsville, KY 42240

9th District
James E. "Jim" Bruce
6750 Ft. Campbell Blvd.
Hopkinsville, KY 42266

10th District
Eddie Ballard
1811 Grampian Drive
Madisonville, KY 42431

11th District
Gross Clay Lindsay
783 Woodspoint Drive
Henderson, KY 42420

12th District
Jim Gooch, Jr.
210 Bradley Street
Providence, KY 42450

13th District
Brian Crall
3336 Bryant Court
Owensboro, KY 42303

14th District
Tommy Thompson
4460 Hwy 142
Owensboro, KY 42303

15th District
Brent Yonts
232 Norman Circle
Greenville, KY 42345

16th District
Sheldon E. Baugh
252 West Valley Drive
Russellville, KY 42276

17th District
C. B. Embry, Jr.
415 Ward Ave.
Morgantown, KY 42261

18th District
Dwight D. Butler
US Hwy. 60 East
P.O. Box 194
Harned, KY 40144

19th District
Dottie J. Sims
459 Violet Avenue
Horse Cave, KY 42749

20th District
Jody Richards
817 Culpeper Street
Bowling Green, KY 42103

21st District
Roger Thomas
4415 Smiths Grove/Scottsville
Smiths Grove, KY 42171

22nd District
Rob Wilkey
1418 Reeder Sch. Road
Franklin, KY 42134

23rd District
Stephen R. Nunn
136 Fairway Place
Glasgow, KY 42141

24th District
Jimmy Higdon
344 N. Spalding Ave.
Lebanon, KY 40033

25th District
Jimmie Lee
901 Dogwood Drive
Elizabethtown, KY 42701

26th District
John Michael Weaver
131 Mayer Lane
Elizabethtown, KY 42701

27th District
James H. Thompson
50 Crosier Bottom Road
Battletown, KY 40104

28th District
Charles Miller
3608 Gateview Circle
Louisville, KY 40272

29th District
Kevin D. Bratcher
5205 Constance Drive
Louisville, KY 40272

30th District
Tom Burch
4012 Lambert Avenue
Louisville, KY 40218

31st District
Steve Riggs
8108 Thornwood Road
Louisville, KY 40220

32nd District
Scott W. Brinkham
6001 Two Springs Lane
Louisville, KY 40207

33rd District
Ron Crimm
10206 Judith Ct.
Louisville, KY 40223

34th District
Mary Lou Marzian
2007 Tyler Lane
Louisville, KY 40205

35th District
Jim Wayne
1280 Royal Avenue
Louisville, KY 40204

36th District
Lonnie Napier
302 Danville Street
Lancaster, KY 40444

37th District
Perry B. Clark
5716 New Cut Road
Louisville, KY 40214

38th District
Denver Butler
6712 Morocco Drive
Louisville, KY 40214

39th District
Robert R. Damron
231 Fairway West
Nicholasville, KY 40356

40th District
Dennis L. Horlander
Ste. 6, 1806 Farnsley Road
Shively, KY 40216

41st District
Tom Riner
1143 E. Broadway
Louisville, KY 40204

42nd District
Reginald K. Meeks
2301 Osage Avenue
Louisville, KY 40210

43rd District
Paul Bather
4706 Varble Avenue
Louisville, KY 40211

44th District
Joni Jenkins
2010 O'Brien Court
Louisville, KY 40216

45th District
Stan Lee
1401 Glenview Dr.
Lexington, KY 40514

46th District
Larry Clark
5913 Whispering Hills Blvd.
Louisville, KY 40219

47th District
Rick W. Rand
1418 Hwy 42 E
Bedford, KY 40006

48th District
Bob M. DeWeese
6206 Glen Hill Road
Louisville, KY 40222

49th District
Mary C. Harper
5550 N. Preston Hwy
Shepherdsville, KY 40165

50th District
Jodie Haydon
106 Hillcrest
Bardstown, KY 40004

51st District
Russ Mobley
900 Holly Street
Campbellsville, KY 42718

52nd District
Ken Upchurch
Rt. 8, Box 2625
Monticello, KY 42633

53rd District
James R. Comer
407 4th St. Blvd.
Tompkinsville, KY 42167

54th District
Mike Harmon
535 S. Lucas St.
Junction City, KY 40440

55th District
Jack L. Coleman, Jr.
781 Buster Pike
Burgin, KY 40310

56th District
Joe Barrows
152 Stout Avenue
Versailles, KY 40383

57th District
Derrick W. Graham
157 Bellemeade Dr.
Frankfort, KY 40601

58th District
Brad Montell
1555 Harrington Mill Rd.
Shelbyville, KY 40065

59th District
Tim Feeley
P.O. Box 64
6520 Hwy. 329
Crestwood, KY 40014

60th District
Paul H. Marcotte
10674 Palestine Drive
Union, KY 41091

61st District
Royce W. Adams
580 Bannister Road
Dry Ridge, KY 41035

62nd District
Charlie Hoffman
406 Bourbon Street
Georgetown, KY 40324

63rd District
Jon E. Draud
109 Vernor Drive
Crestview Hills, KY 41017

64th District
Thomas R. Kerr
5415 Old Taylor Mill
Taylor Mill, KY 41015

65th District
Arnold R. Simpson
112 West 11th
Covington, KY 41011

66th District
Charlie Walton
1663 Brierwood Court
Florence, KY 41042

67th District
Jim Callahan
10 Colonel Pointe Drive
Wilder, KY 41076

68th District
Joseph M. Fischer
11 Robannette Court
Ft. Thomas, KY 41075

69th District
Jon David Reinhardt
637 W. Poplar Thicket
Alexandria, KY 41001

70th District
Mitchel B. "Mike" Denham
306 Old Hill City Road
Maysville, KY 41056

71st District
John Will Stacy
Liberty Road, P.O. Box 135
West Liberty, KY 41472

72nd District
Carolyn R. Belcher
P.O. Box 44
1463 Old State Road
Preston, KY 40366

73rd District
Don Pasley
5805 Ecton Rd.
Winchester, KY 40391

74th District
Adrian K. Arnold
3589 Aarons Run Road
Mt. Sterling, KY 40353

75th District
Kathy W. Stein
364 Transylvania Park
Lexington, KY 40508

76th District
Ruth Ann Palumbo
10 Deepwood Drive
Lexington, KY 40505

77th District
Jesse Crenshaw
117 Constitution Street
Lexington, KY 40507

78th District
Thomas M. McKee
1053 Cook Rd.
Cynthiana, KY 41031

79th District
Susan Westrom
2965 B Candlelight Way
Lexington, KY 40502

80th District
Danny R. Ford
Hwy 150, P.O. Box 85
Mt. Vernon, KY 40456

81st District
Harry Moberly, Jr.
119 Jacks Trace, P.O. Box 721
Richmond, KY 40475

82nd District
Charles L. Siler
3570 Tackett Creek Road
Williamsburg, KY 40769

83rd District
Jeff Hoover
372 Lakeview Dr.
P.O. Box 985
Jamestown, KY 42629

84th District
Brandon Smith
350 Kentucky Blvd.
Hazard, KY 41701

85th District
Tommy Turner
175 Clifty Grove Church Rd.
Somerset, KY 42501

86th District
Jim Stewart
141 KY 223
Flat Lick, KY 40935

87th District
Rick G. Nelson
Route 3, Box 686
Middlesboro, KY 40965

88th District
Bill Farmer
3361 Squire Oak Dr.
Lexington, KY 40515

89th District
Marie L. Rader
U.S. 421 South
P.O. Box 323
McKee, KY 40447

90th District
Tim Couch
215 Meadow Lane
Hyden, KY 41749

91st District
Ted "Teddy" Edmonds
1257 Beattyville Rd.
Jackson, KY 41339

92nd District
Ancel Smith
1812 Wiley Fork Rd.
LeBurn, KY 41831

93rd District
W. Keith Hall
155 McCoy Caney Rd.
Phelps, KY 41553

94th District
Howard Cornett
20 Elpaso Dr.
Whitesburg, KY 41858

95th District
Vacancy
Special Election 2/17/04

96th District
Robin L. Webb
404 West Main Street
Grayson, KY 41143

97th District
Hubert Collins
72 Collins Lane
Whittensville, KY 41274

98th District
Tanya Pullin
RR #1, Box 486
South Shore, KY 41175

99th District
Rocky Adkins
3513 Briarwood Dr.
Catlettsburg, KY 41129

100th District
John F. Vincent
2320 Hickory Ridge Drive
Ashland, KY 41101

Introduction of Bills and Resolutions

HB 225, by Representatives Weaver and Richards: AN ACT relating to military discharge papers.

HB 226, by Representative Weaver: AN ACT relating to wireless communications.

HB 227, by Representative Higdon: AN ACT relating to catastrophic health benefit plans.

HB 228, by Representatives Miller, Siler, L. Clark, Hoffman, P. Clark, Horlander, Jenkins, Wayne, and Meeks: AN ACT relating to correctional facilities.

HB 229, by Representative Ballard: AN ACT relating to school attendance.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 196**

Banking and Insurance: **HB 206, 215**

Education: **HB 207, 224**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 208, 209, 210, 211**

Health and Welfare: **HB 213, 214, 216, 217, 218, 219, 220**

Judiciary: **HB 205, 212, 221, 222, 223**

Labor and Industry: **HB 197, 198, HR 53**

Licensing and Occupations: **HB 200**

Local Government: **HB 202, 203**

Seniors, Military Affairs, and Public Safety: **HB 204**

State Government: **HB 201**

Tourism Development and Energy: **HCR 57**

Transportation: **HB 199, HJR 54, 55**

House Floor: **HR 56**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

State Government: **HB 1, 2, 11, 40, 49, 80, 94, 104, 106, 123, 128, 167, HCR 29, 30, 39**

Health and Welfare: **HB 82, 148, 72, 73, 52, 105, 59, 90, 157, 116, 160**

Report of Committees

The Committee on Committees has met and reported the following change:

Representative Reinhardt has been appointed to the Committee on Elections, Constitutional Amendments, and Intergovernmental Relations

Calendar

HB 69 and **HCR 5** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Motions, Petitions, and Communications

Representative Adkins moved that **HB 26** be reassigned to the Committee on Judiciary. Agreed.

Representative Crimm moved that **HB 30** be withdrawn. Agreed.

Representative Burch moved that **HB 214** be withdrawn. Agreed.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 230, by Representative Comer: AN ACT relating to the use of nitrous oxide systems in motor vehicles.

HB 231, by Representative Riggs: AN ACT relating to indemnification.

HB 232, by Representative Pasley: AN ACT relating to crimes and punishments.

HB 233, by Representative Cherry: AN ACT relating to contact lenses.

HB 234, by Representative Cherry: AN ACT relating to unlawful practices by employers.

HB 235, by Representative Cherry: AN ACT relating to in-state tuition at postsecondary institutions.

HB 236, by Representative Cherry: AN ACT relating to retirement.

HB 237, by Representative Cherry: AN ACT relating to retirement.

HB 238, by Representative Haydon: AN ACT relating to license plates.

HB 239, by Representative Haydon: AN ACT relating to wineries.

HB 240, by Representative Moberly: AN ACT relating to the state budget.

HJR 58, by Representative Cherry: A JOINT RESOLUTION requesting the Kentucky Department of Education to provide education and training to school personnel regarding the use of psychotropic drugs as a part of children's treatment; urging the Cabinet for Families and Children to ensure that a parent's refusal to allow a child to receive psychotropic drugs as a part of treatment not be used as the sole grounds for taking a child into custody; and requesting the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses, and Regional Mental Health Planning Councils to study the issues relating to psychotropic drugs in Kentucky.

HCR 59, by Representative Cherry: A CONCURRENT RESOLUTION urging the United States Congress, Department of Health and Human Services, and Food and Drug Administration to limit, ban, or otherwise impose strict standards on direct-to-consumer advertising of drugs by pharmaceutical companies.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Resolution has been posted for Committee consideration:

Judiciary: **HCR 14**

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 3, Representatives Ford, Nelson, Reinhardt, Riner, B. Smith, T. Thompson, Turner

HB 13, Representatives Napier, Embry, Walton, Kerr, Fischer, Reinhardt, Rader, Riner, Hoffman, Couch, Harper, Cornett, Brinkman, Bratcher, Ford, Mobley, Stewart, Yonts, A. Smith

HB 26, Representative Buckingham

HB 43, Representative Nelson

HB 63, Representative Nelson

HB 64, Representative Nelson

HB 69, Representative Nelson

HB 95, Representatives Nelson and Montell

HB 98, Representative Westrom

HB 104, Representative Sims

HB 105, Representatives Graham and Nunn

HB 106, Representative Nelson

HB 113, Representatives Cornett and Nelson

HB 116, Representative Nunn

HB 124, Representatives Brinkman and Montell

HB 140, Representative Crenshaw

HB 153, Representative Buckingham

HB 155, Representative Buckingham

HB 159, Representative Embry

HB 165, Representative Embry

HB 176, Representative Nelson

HB 177, Representative Nelson

HB 178, Representative Nelson

HB 192, Representative Nelson

HB 195, Representative Nelson

HCR 5, Representative Embry

HCR 14, Representative T. Thompson

HCR 16, Representative T. Thompson

HCR 35, Representative Denham

HJR 12, Representatives P. Clark, R. Adams, and McKee

HJR 18, Representative Rader

Announcements

The following meeting was announced:

Majority Caucus - 15 minutes upon adjournment, Room 149

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 10:00 a.m., Friday, January 9, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 10:00 a.m., Friday, January 9, 2004, was adopted by voice vote.

FRIDAY, JANUARY 9, 2004

FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Father Al Fritsch, Good Shepherd Catholic Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

Josh Snell sang the National Anthem and My Old Kentucky Home.

The roll was called. All members present except Representatives Bather, Bruce, Coleman, Comer, Geveden, Gooch, Hall, Haydon, Higdon, Nelson, Stacy, and Upchurch.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 8, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 241, by Representative Lindsay: AN ACT relating to civil actions.

HB 242, by Representative Lindsay: AN ACT relating to public health.

HB 243, by Representatives Lindsay and Vincent: AN ACT relating to the Court of Justice.

HB 244, by Representatives Lindsay and Vincent: AN ACT relating to state government.

HB 245, by Representative Lindsay: AN ACT relating to crimes and punishments.

HB 246, by Representative Feeley: AN ACT relating to levy and recall of taxes.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 240**

Banking and Insurance: **HB 227**

Education: **HB 229, 235**

Health and Welfare: **HJR 58, HCR 59**

Judiciary: **HB 228, 231, 232, 236**

Labor and Industry: **HB 234**

Licensing and Occupations: **HB 233, 239**

Seniors, Military Affairs, and Public Safety: **HB 225**

State Government: **HB 226, 237**

Transportation: **HB 230, 238**

Report of Committees

The Committee on Committees has met and reported the following changes:

APPOINT:

Representative J. Arnold to

Committee on Appropriations and Revenue

Budget Review Subcommittee on General Government

Representative Wilkey to

Budget Review Subcommittee on Transportation

Chair, Budget Review Subcommittee on Transportation

Representative Damron to

Budget Review Subcommittee on Economic Development and Tourism, Natural Resources and Environmental Protection

Chair, Budget Review Subcommittee on Economic Development and Tourism, Natural Resources and Environmental Protection

Representative Jenkins to

Committee on Rules

Representative Sims to

Committee on Economic Development

Representative Hall to

Budget Review Subcommittee on Transportation

REMOVE:

Representative Wilkey to

Budget Review Subcommittee on Economic Development and Tourism, Natural Resources and Environmental Protection

Representative Damron

Budget Review Subcommittee on General Government

Representative Adkins moved that the rules be suspended for a Committee on Rules meeting. Agreed.

Representative Adkins moved to suspend the rules to allow the House to recess. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order. Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HCR 5** has been posted for passage in the Regular Orders of the Day for January 12, 2004.

The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **HB 69**

Motions, Petitions, and Communications

Representative R. Adams moved the adoption of the following **Legislative Citation No. 2**.

The House of Representatives of the Commonwealth of Kentucky hereby offers a most enthusiastic welcome to Josh Snell as he visits the chambers of the House of Representatives to sing during this day of the 2004 Regular Session of the Kentucky General Assembly. A talented young scholar and musician at Owen County High School where he participates in the marching band, the concert band, and indoor percussion, Mr. Snell has attended the Culver Summer Camps in Culver, Indiana, where he participated in the Drum and Bugle Corps and the Naval Band and was named the recipient of a musical medal; has been selected as a member of the Asbury Band Clinic for two consecutive years; attended the Governor's School for the Arts in vocal music; and, is a skilled player of the baritone, the trumpet, and the drums. Inasmuch as Josh Snell has demonstrated tremendous talent and outstanding promise as a musician by his many accomplishments and by his presence on this memorable occasion, the members of this august body are delighted to join Representative Royce Adams in applauding this remarkable young gentleman for his splendid performance and in extending to him best wishes for continuing success and good fortune. Done in Frankfort, Kentucky, this ninth day of January, in the year two thousand and four.

Legislative Citation No. 2 was adopted without objection.

Representative Collins moved the adoption of the following **Legislative Citation No. 3**.

The House of Representatives of the Commonwealth of Kentucky hereby honors and commends Barbara R. Rhoads for twenty-six years of sincere dedication and commitment to the members of the Kentucky House of Representatives and the legislative process. For inasmuch as Barbara Rhoads did cheerfully and gladly work long hours during legislative sessions to assure deadlines were met and innumerable requests were filled, the members of the Kentucky House of Representatives do recognize and applaud her faithfulness and her persistent objective that made each legislator and each request the most important and the most critical. The loyalty and devotion demonstrated by said recipient will long be remembered and appreciated by those legislators for whom she worked. Furthermore, members of the House of Representatives sincerely send her best wishes as she enters the threshold of retirement and send with her into retirement heartfelt gratitude for the golden years she spent contributing to the smooth operation of the legislative process and its positive impact on the people of the Commonwealth. Done in Frankfort, Kentucky, this ninth day of January, in the year two thousand and four.

Legislative Citation No. 3 was adopted without objection.

Representative Ford moved the adoption of the following **Legislative Citation No. 4**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Rose Cannon upon the recent occasion of her 80th Birthday. In celebration of this memorable event, the entire membership is delighted to join Representative Danny R. Ford in commending Ms. Cannon for a life lived to the fullest and for the vitality of spirit which has brought her thus far. Born on January 6, 1924, this esteemed honoree is a dedicated member of the Temple Baptist Church; the cherished mother of Billip Taps, Sandy Morgan, Donna Stayton and Pete Cannon; and the doting grandmother of four grandchildren and eight great-grandchildren. In recognition of the many lasting contributions she has made to her family and community, this distinguished body hereby extends warmest wishes to this highly-regarded recipient on the meaningful occasion of her 80th birthday. Done in Frankfort, Kentucky, this ninth day of January, in the year two thousand and four.

Legislative Citation No. 4 was adopted without objection.

Representative Weaver moved the adoption of the following as a group: **HR 47, 48, 49, 50, 51,** and **52.**

Representative Weaver moved the adoption of the following **HR 47**:

HR 47, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Sergeant Gary B. Coleman.

With deepest respect and admiration, we pay homage and tribute to Sergeant Gary B. Coleman, and we pause in silent reverence for his soul.

WHEREAS, Gary B. Coleman was born on March 10, 1978, a native of Pikeville, Pike County, Kentucky, and he traversed these earthly bounds on November 21, 2003; and

WHEREAS, Gary B. Coleman was the loving son of Gary Coleman and Janie Adkins Johnson; he was the devoted husband of Kristen Sinley Coleman; and he leaves behind a loving brother, Jason Coleman of San Francisco; and

WHEREAS, Gary B. Coleman was a 1997 graduate of Pikeville High School, where he was an all-county football running back; he held school records for the most career yards and most career points; and he was awarded the title of 1996 Offensive Player of the Year; and

WHEREAS, Sergeant Gary B. Coleman was a tank commander assigned to B Company, 1st Battalion, 68th Armored Regiment, 3rd Brigade, 4th Infantry Division, Fort Carson, Colorado; and

WHEREAS, Sergeant Gary B. Coleman was sent to Iraq in March 2003, as a member of the 4th Infantry Division, and was on patrol and in pursuit of a suspicious vehicle near Balad, Iraq, when his Humvee overturned; and

WHEREAS, Sergeant Gary B. Coleman served his country with honor and distinction and was awarded the Bronze Star for bravery and meritorious service, and the Purple Heart for wounds received in action; and

WHEREAS, the passing of Sergeant Gary B. Coleman has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Sergeant Gary B. Coleman and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Sergeant Gary B. Coleman.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the parents of Sergeant Gary B. Coleman, Ms. Janie Adkins Johnson, Post Office Box 285, Virgie, Kentucky 41572, and Mr. Gary Coleman, Post Office Box 2009, Pikeville, Kentucky 41502; and to the wife of Sergeant Gary B. Coleman, Mrs. Kristen Sinley Coleman, 380 Crestone Lane #23, Colorado Springs, Colorado 80906.

There being no objection **HR 47** was adopted.

Representative Weaver moved the adoption of the following **HR 48**:

HR 48, A RESOLUTION adjourning the House of Representatives in loving memory and honor of John R. Groves, Jr.

With deepest respect and admiration, we pay homage and tribute to John R. Groves, Jr., and we pause in silent reverence for his soul.

WHEREAS, John R. Groves, Jr. was born on June 18, 1946, a native of Lexington, Fayette County, Kentucky, and he traversed these earthly bounds on September 27, 2003; and

WHEREAS, John R. Groves, Jr. was the loving son of the late John Russell Groves and Lida Garred Groves; he was the devoted husband of Barbara Meyer Groves; he was the loving father of two sons, Captain John Marshall Groves and Captain Matthew Meyer Groves, and a daughter Elise Elizabeth Groves; and he also leaves behind a loving sister, Lida Clark Groves; and

WHEREAS, John R. Groves, Jr. graduated from Bryan Station High School in Lexington, where he was also a member of the Graduate Hall of Distinction; he graduated from the University of Kentucky College of Architecture and the University of Kentucky College of Law; and he held a Ph.D. in Education; and

WHEREAS, Major General John R. Groves, Jr. served his country with honor and distinction in the United States Army with more than 36 years of military service; after four years of enlisted experience, he was commissioned through Infantry Officer Candidate School in 1968; he was elected to the Officer Candidate School Hall of Fame; during his military service career, he diligently commanded units at the company, battalion, regiment, and brigade level before being selected as commanding general of the Kentucky National Guard; he served as both Adjutant General of the Commonwealth of Kentucky and the Commissioner of the Department of Veterans' Affairs from December 12, 1995, to September 30, 1998; after he stepped down as Commissioner of the Department of Veterans' Affairs, he continued as Adjutant General until August 10, 2001; his vision and leadership abilities led to the increased development of Bluegrass Station, and the expansion of the Wendell H. Ford Regional Training Center in Greenville; and he was instrumental in the establishment of the Kentucky Youth Challenge Program and the success of the National Guard Tuition Assistance Program; and

WHEREAS, in 1995, Major General John R. Groves, Jr. was appointed as one of the first National Guard officers to serve as adjunct faculty at the United States Army War College Strategic Studies Institute in Carlisle, Pennsylvania; in 1997, he was selected by the Secretary of Defense for membership on the Reserve Forces Policy Board; and in April, 2002, he was named a member of the War College's Board of Visitors, where he served as Chair of the Academic Affairs and Outreach Committee; and

WHEREAS, John R. Groves, Jr. was an esteemed member of the Fayette County community, where he was a Vestry Member and Senior Warden of the Church of the Good Shepherd; he was appointed to the boards of the Blue Grass Council of the Boy Scouts of America, the Kentucky Partners Chapter of the Partners of the Americas, the Lexington-Fayette County Airport Board, the Kentucky Heritage Council, the University of Kentucky Alumni Association, and the Kentucky Historic Properties Commission; and

WHEREAS, John R. Groves, Jr. was a multi-talented man; in addition to being a soldier, architect, attorney, and professor, he was also an accomplished private pilot, sailor, sport parachutist, outdoor enthusiast, and the author of numerous articles published in professional architectural and military journals; and he will be sorely missed by those who had the good fortune of knowing him; and

WHEREAS, Major General John R. Groves, Jr. in his capacity as Adjutant General testified many times before the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection and worked with the committee to strengthen and support the Kentucky Department of Military Affairs; and

WHEREAS, the passing of John R. Groves, Jr. has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of John R. Groves, Jr. and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of John R. Groves, Jr.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Barbara Meyer Groves, 718 Camino Road, Lexington, Kentucky 40502.

There being no objection **HR 48** was adopted.

Representative Weaver moved the adoption of the following **HR 49**:

HR 49, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Martin Andrew Tori II.

With deepest respect and admiration, we pay homage and tribute to Martin Andrew Tori II, and we pause in silent reverence for his soul.

WHEREAS, Martin Andrew Tori II was born on May 3, 1940, a native of Hartsdale, New York, and longtime resident of the Commonwealth of Kentucky, and he traversed these earthly bounds on June 7, 2003; and

WHEREAS, Martin Andrew Tori II was the loving son of the late Martin and Celia Tori; he was the devoted husband of Elizabeth Tori; he was the loving father of three sons, Martin Tori III of Boston, Mike King of Vine Grove, and Brent King of Langley Air Force Base, Virginia; and four daughters, Maria Tori Ruben and Melissa Tori, both of Surfside, Florida, Pamela Clough of Hopkinsville, and Debbie Cowley Reese of Radcliff, and a special daughter, Christy Rotert of Rineyville; and he was the proud grandfather of 14 grandchildren and two great-grandchildren; and he also leaves behind two loving sisters, Carol Sarcinella and Theresa Tori, both of Hartsdale, New York; and

WHEREAS, Martin Andrew Tori II was a member of St. Brigid Catholic Church in Vine Grove, where his funeral Mass was held on June 11, 2003, with the Reverend Roy Dentringer officiating; and

WHEREAS, Martin Andrew Tori II served his country with honor and distinction in the United States Army; he was a retired Army major; and he held memberships in the Black Horse Regiment Association, American Legion Post No. 113, Veterans of Foreign Wars Post No. 10281, The Retired Officers Association, and Association of the United States Army; and

WHEREAS, Martin Andrew Tori II was an involved and outstanding citizen of his community, where he was a member of the Radcliff-Hardin County Chamber of Commerce and the Elizabethtown-Hardin County Chamber of Commerce; he was a loyal member of the Republican Party, a former member of the State Republican Party Executive Committee, and a mentor to members of the Hardin County Republican Party; and

WHEREAS, the passing of Martin Andrew Tori II has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of bereavement upon the passing of Martin Andrew Tori II and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Martin Andrew Tori II.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Honorable Elizabeth Tori, 2851 South Wilson Road, Radcliff, Kentucky 40160.

There being no objection **HR 49** was adopted.

Representative Weaver moved the adoption of the following **HR 50**:

HR 50, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Sergeant Darrin K. Potter.

With deepest respect and admiration, we pay homage and tribute to Sergeant Darrin K. Potter, and we pause in silent reverence for his soul.

WHEREAS, Sergeant Darrin K. Potter was a native of Louisville, Jefferson County, Kentucky, and he traversed these earthly bounds on September 29, 2003; and

WHEREAS, Sergeant Darrin K. Potter was a graduate of Butler High School; and

WHEREAS, Sergeant Darrin K. Potter was a citizen-soldier in the Kentucky Army National Guard; and

WHEREAS, Sergeant Darrin K. Potter had served in the Kentucky Army National Guard for five years; he was sent to Iraq in February, 2003, as part of the 223rd Military Police Company assigned to guard prisoners of war and protect United States soldiers; and his unit was en route to protect United States soldiers who had come under fire in a mortar attack; and

WHEREAS, Sergeant Darrin K. Potter valiantly gave his life in defense of his country, and he was the first Kentucky National Guard soldier killed in combat since the Vietnam War; and

WHEREAS, the passing of Sergeant Darrin K. Potter has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Sergeant Darrin K. Potter and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Sergeant Darrin K. Potter.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the parents of Sergeant Darrin K. Potter: Ms. Alberta Lynn Romans, 7101 Gate Run Road, Apartment 4, Louisville, Kentucky 40299, and Mr. David Keith Potter, 10355 Timberwood Circle, Louisville, Kentucky 40223.

There being no objection **HR 50** was adopted.

Representative Weaver moved the adoption of the following **HR 51**:

HR 51, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Sergeant Michael D. Acklin II.

With deepest respect and admiration, we pay homage and tribute to Sergeant Michael D. Acklin II, and we pause in silent reverence for his soul.

WHEREAS, Michael D. Acklin II was a resident of Louisville, Jefferson County, Kentucky, and he traversed these earthly bounds on November 15, 2003; and

WHEREAS, Michael D. Acklin II was the loving son of Michael and Dorothy Acklin; and

WHEREAS, Michael D. Acklin II was an esteemed member of the Pleasure Ridge Park community, was a graduate of Western High School, and served his country with pride and distinction in the United States Army, first enlisting in 1998 and then re-enlisting in 2003; and

WHEREAS, Sergeant Michael D. Acklin II was assigned to the 1st Battalion, 320th Field Artillery, 101st Airborne, Air Assault, Fort Campbell, Kentucky; and

WHEREAS, Sergeant Michael D. Acklin II was sent to Iraq in March 2003 as a member of the 101st Airborne, and he was aboard a Black Hawk helicopter near Mosul, Iraq, when tragedy struck, taking his life and the lives of 16 other American soldiers; and

WHEREAS, the passing of Sergeant Michael D. Acklin II has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Sergeant Michael D. Acklin II and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Sergeant Michael D. Acklin II.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the parents of Sergeant Michael D. Acklin II, Ms. Dorothy Acklin, 148 Charlet Village, Louisville, Kentucky 40216, and Mr. Michael D. Acklin Sr., 2003 Perth Drive, Louisville, Kentucky 40216.

There being no objection **HR 51** was adopted.

Representative Weaver moved the adoption of the following **HR 52**:

HR 52, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Specialist James E. Powell.

With deepest respect and admiration, we pay homage and tribute to Specialist James E. Powell, and we pause in silent reverence for his soul.

WHEREAS, James E. Powell was a resident of Radcliff, Hardin County, Kentucky, and he traversed these earthly bounds on October 12, 2003; and

WHEREAS, James E. Powell was the devoted husband of Ruby Mann Powell, and he was the loving father of a daughter, Lauren Powell; and

WHEREAS, Specialist James E. Powell served in the United States Navy as a Seaman Apprentice on the USS Arctic from June, 1997, to June, 2000; and

WHEREAS, Specialist James E. Powell enlisted in the United States Army in 2001, and he was assigned to the 1st Battalion, 22nd Infantry Regiment of the 4th Infantry Division, Fort Hood, Texas; and

WHEREAS, Specialist James E. Powell was serving with the 1st Battalion, 22nd Infantry Regiment of the 4th Infantry Division in northern Iraq when his Bradley armored vehicle struck an anti-tank mine near the town of Beiji; and

WHEREAS, Specialist James E. Powell served his country with dedication and honor, and he was awarded the Bronze Star, Purple Heart, and Combat Infantry Badge for his meritorious service; and

WHEREAS, the passing of Specialist James E. Powell has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Specialist James E. Powell and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in the loving memory and honor of Specialist James E. Powell.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the wife of Specialist James E. Powell: Mrs. Ruby Mann Powell, 284 Pickney Street, Liberty Village, Fort Hood, Texas 76533-1716.

There being no objection **HR 52** was adopted.

On the roll call for co-sponsors the vote was: **Yeas 86.** (See January 9, 2004, roll call to show co-sponsors on **HR 47, 48, 49, 50, 51,** and **52**-Appendix.)

Representative Adkins moved that **HB 97** be reassigned to the Committee on Appropriations and Revenue.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 247, by Representative Kerr: AN ACT relating to education.

HB 248, by Representative Kerr: AN ACT relating to the custody of children.

HB 249, by Representatives Moberly, J. Lee, Pasley, Weaver, and Buckingham: AN ACT relating to revenue and taxation.

HB 250, by Representative S. Lee: AN ACT relating to the Kentucky educational excellence scholarship program.

HB 251, by Representatives Belcher and Sims: AN ACT relating to lost and missing children.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Judiciary: **HB 170, 171, 18,** and **6**

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 13, Representative Thomas

HB 32, Representative Marcotte

HB 52, Representatives Embry, J. Arnold, De. Butler, Feeley, Cherry, L. Clark, Riggs, Westrom, Stein, Palumbo, Sims, J. Thompson, Bratcher, Montell, Belcher, and Rader

HB 53, Representative Walton

HB 55, Representatives Simpson, Walton, Rand, Embry, and Marcotte

HB 69, Representative Yonts

HB 104, Representative Embry

HB 105, Representatives Graham, J. Arnold, Feeley, Geveden, Cherry, De. Butler, Riggs, Westrom, Stein, Palumbo, Sims, J. Thompson, Belcher, Rader, and Pasley

HB 108, Representative Yonts

HB 113, Representative Richards

HB 137, Representative Hoover

HB 138, Representative Hoover

HB 139, Representative Hoover

HB 140, Representative Hoover

HB 141, Representative Hoover

HB 146, Representative Hoover

HCR 4, Representatives Fischer and Vincent

HCR 44, Representative Embry

HCR 45, Representative Embry

HR 47, Representatives J. Adams, Wilkey, Gray, Ballard, Gooch, T. Thompson, Yonts, Geveden, J. Thompson, J. Arnold, Nesler, and Crenshaw

HR 48, Representatives J. Adams, Wilkey, Gray, Geveden, Gooch, T. Thompson, Yonts, Richards, J. Thompson, J. Arnold, Nesler, and Crenshaw

HR 49, Representatives J. Adams, Wilkey, Gray, Ballard, Gooch, Geveden, Richards, T. Thompson, Yonts, J. Thompson, J. Arnold, Nesler, and Crenshaw

HR 50, Representatives J. Adams, Wilkey, Gray, Ballard, Gooch, Yonts, Geveden, T. Thompson, J. Thompson, J. Arnold, Nesler, and Crenshaw

HR 51, Representatives J. Adams, Wilkey, Gray, Ballard, Gooch, T. Thompson, Geveden, Yonts, J. Thompson, J. Arnold, Nesler, and Crenshaw

HR 52, Representatives J. Adams, Wilkey, Gray, Ballard, Gooch, T. Thompson, Geveden, Yonts, Richards, J. Thompson, J. Arnold, Nesler, and Crenshaw

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 4:00 p.m., Monday, January 12, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 4:00 p.m., Monday, January 12, 2004, was adopted by voice vote.

MONDAY, JANUARY 12, 2004

FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Robert A. Strode, St. John AME Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Geveden, Higdon, and Pullin.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 9, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 252, by Representative Buckingham: AN ACT relating to alcoholic beverage fees.

HB 253, by Representative Burch: AN ACT relating to the Kentucky Emergency Response Commission.

HB 254, by Representative Burch: AN ACT relating to motor vehicle sales.

HB 255, by Representative Bather: AN ACT relating to Medicaid managed care and declaring an emergency.

HB 256, by Representative Lindsay: AN ACT relating to corporations.

HB 257, by Representative Lindsay: AN ACT relating to crimes and punishments.

HCR 60, by Representatives Walton, Marcotte, Fischer, Simpson, Kerr, and Draud: A CONCURRENT RESOLUTION proclaiming May 24th Aircraft Maintenance Technician Day in honor of the first aircraft maintenance technician, Charles Edward Taylor.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Appropriations and Revenue: **HB 246, 249**

Education: **HB 250**

Health and Welfare: **HB 242, 251**

Judiciary: **HB 241, 243, 245, 247, 248**

State Government: **HB 244**

Orders of the Day

HCR 5 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HCR 5** be adopted.

On the roll call the vote was: **Yeas 94, Nays 0.** (See January 12, 2004, roll call on **HCR 5** - Appendix.)

HCR 5 was adopted.

Representative Damron moved that the vote by which **HCR 5** was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Pursuant to **HR 2,** the Speaker appointed the following committee to wait upon Governor Ernie Fletcher: Representatives Thomas, Wilkey, Draud, Siler, Comer, and Rader.

Representative Adkins moved that the posting requirement be waived on **HB 4, 5, 97, 113, 125,** and **156**. Agreed.

Representative Denham moved that the rules be suspended to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 61, by Representative Denham: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Leon H. Brammer.

Representative Denham moved the adoption of the following **HR 61**:

HR 61, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Leon H. Brammer.

With deepest respect and admiration, we pay homage and tribute to Leon H. Brammer, and we pause in silent reverence for his soul.

WHEREAS, Leon H. Brammer was born on April 10, 1919, a native of Fleming County, Kentucky, and he traversed these earthly bounds on January 7, 2004; and

WHEREAS, Leon H. Brammer was the loving son of the late Flem and Erma Muse Brammer; he was the devoted husband of Lillian Redden Brammer; he was the loving father of a daughter, Vicki Lynn Grooms of Seaman, Ohio; he was the loving father of three stepchildren, Patricia Osman of Seaman, Ohio; Pamela Williams of Peebles, Ohio; and Tracy Grooms of Hillsboro, Ohio; and he was the proud grandfather of five stepgrandchildren, Heather Osman, Orie Osman, Megan Edwards, Trevor Williams, and Jesse Williams; and he also leaves behind two loving brothers, Gene Brammer and Howard Brammer, both of Maysville; and

WHEREAS, Leon H. Brammer served his country with honor and distinction in the United States Army during World War II, where he served in Central Europe as a supply truck driver for the 605th Tank Destroyer Division; and for his courage and valor, he was awarded several medals, including two Bronze Stars; and

WHEREAS, Leon H. Brammer was employed by the White Light Restaurant in Maysville for 35 years; he was a devout member of Central Baptist Church, where his funeral service was held on January 10, 2004; and he also served Central Baptist Church as an usher, and as a member of the Baptismal Committee and the Decoration Committee; and

WHEREAS, the passing of Leon H. Brammer has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Leon H. Brammer, and extends to his family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Leon H. Brammer.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Ms. Lillian Redden Brammer, 422 Central Avenue, Maysville, Kentucky 41056.

There being no objection, **HR 61** was adopted.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 258, by Representative Riggs: AN ACT relating to the office expenses of county clerks and sheriffs.

HB 259, by Representative Gooch: AN ACT relating to the state insurance group.

HR 62, by Representative Meeks: A RESOLUTION adjourning the House of Representatives in honor of the American Printing House for the Blind.

HCR 63, by Representatives Webb and Stewart: A CONCURRENT RESOLUTION confirming the appointment of Stephen C. Cawood to the Mine Safety Review Commission.

HJR 64, by Representatives Webb and Adkins: A JOINT RESOLUTION naming the Carter Caves State Resort Park's Lewis Caveland Lodge.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 7, 29, 89, 139, 215, 227, HCR 41**

Education: **HB 152, HCR 22, 23, 24, 31, 32, 33, 34**

Judiciary: **HB 76, 91, 101, 135, 137, 140, 146, 161, 187**

Labor and Industry: **HB 63, 64, 65, 8, 186, 197, 198, 234, HR 53**

Licensing and Occupations: **HB 70, 84, 126, 200**

Local Government: **HB 19, 20**

Natural Resources and Environment: **HCR 15, 20, HB 179**

Seniors, Military Affairs, and Public Safety: **HB 113, 225**

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 3, Representatives Bruce, Ballard, and Comer

HB 7, Representative Bather

HB 13, Representative Crimm

HB 14, Representative Crimm

HB 43, Representative Crimm

HB 55, Representatives Vincent, Draud, Rand, Baugh, Weaver, Crenshaw, Bratcher, S. Lee, Dw. Butler, Mobley, J. Arnold, and Jenkins

HB 95, Representatives Collins and Crimm

HB 107, Representative Palumbo

HB 108, Representative Buckingham

HB 116, Representative Marzian

HB 157, Representative Crimm

HB 195, Representative Crimm

HB 223, Representative Crimm

HB 247, Representative Crimm

HCR 5, Representative L. Clark

HCR 6, Representatives Buckingham, J. Arnold, R. Adams, Gooch, Edmonds, Weaver, Pasley, Stewart, and Brinkman

HCR 8, Representative Adkins

HCR 14, Representatives Gooch, Buckingham, J. Arnold, A. Arnold, R. Adams, P. Clark, Palumbo, Edmonds, Weaver, Pasley, Haydon, Stewart, and Brinkman

HCR 41, Representative Brinkman

Announcements

The following meetings were announced:

Committee on Labor and Industry - Tuesday, January 13, 2004, 1 p.m.

Committee on Natural Resources and Environment - Tuesday, January 13, 2004, 9 a.m., Room 131

Committee on Seniors, Military Affairs, and Public Safety - Tuesday, January 13, 2004, 8:30 a.m., Room 129

Committee on Appropriations and Revenue - Tuesday, January 13, 2004, 10 a.m.

Committee on Local Government - Tuesday, January 13, 2004, 10 a.m.

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 2:00 p.m., Tuesday, January 13, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 2:00 p.m., Tuesday, January 13, 2004, was adopted by voice vote.

TUESDAY, JANUARY 13, 2004

SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Jack Brewer, First United Methodist Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 12, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Health and Welfare: **HB 255**

Judiciary: **HB 256, 257**

Licensing and Occupations: **HB 252**

Local Government: **HB 258**

Natural Resources and Environment: **HCR 63**

Seniors, Military Affairs, and Public Safety: **HB 253**

State Government: **HB 259**

Tourism Development and Energy: **HJR 64**

Transportation: **HB 254, HCR 60**

House Floor: **HR 62**

Report of Committees

The Committee on Seniors, Military Affairs, and Public Safety reported **HB 113** and **HB 225** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 113, AN ACT relating to the awarding of high school diplomas.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.140 is amended to read as follows:

(1) When a pupil in any public elementary school or any approved private or parochial school completes the prescribed elementary program of studies, he is entitled to a certificate of completion signed by the teacher or teachers under whom the program was completed. The certificate shall entitle the pupil to admission into any public high school. Any promotions or credits earned in attendance in any approved public school are valid in any other public school to which a pupil may go, but the superintendent or principal of a school, as the case may be, may assign the pupil to the class or grade to which the pupil is best suited. In case a pupil transfers from the school of one (1) district to the school of another district, an assignment to a lower grade or course shall not be made until the pupil has demonstrated that he is not suited for the work in the grade or course to which he has been promoted.

(2) Upon successful completion of all state and local board requirements, the student shall receive a diploma indicating graduation from high school.

(3) A local school board may award a diploma indicating graduation from high school to any student posthumously with the high school class the student was expected to graduate.

(4) A local board of education shall award a high school diploma to an honorably discharged veteran who was enrolled in, but did not complete, high school prior to being inducted into the United States Armed Forces during World War II***, as defined in KRS 40.010, or the Korean conflict,*** as defined in KRS 40.010. Upon recommendation of the commissioner, the Kentucky Board of Education in consultation with the Kentucky Department of Veterans' Affairs shall promulgate administrative regulations to establish the guidelines for awarding these diplomas.

(5) The Department of Education shall establish the requirements for a vocational certificate of completion. A student who has returned to school after dropping out shall receive counseling concerning the vocational program. A student who has completed the requirements established for a vocational program shall receive a vocational certificate of completion specifying the areas of competence.

HB 225, AN ACT relating to military discharge papers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 422.090 is amended to read as follows:

(1) All discharge papers, ***including Form DD-214,*** given, executed or delivered to any person in the military or naval service of the United States, which evidence his discharge from the service of the United States and show the unit or part of the department to which he was attached and from which he was discharged may be recorded in the office of the county clerk of the county in which the person discharged is a resident. Upon the presentation of such discharge papers the county clerk shall record them, without charge therefor, in a suitable book which he shall provide for that purpose.

(2) A certified or attested copy of such recorded discharge is admissible evidence in all proceedings in which such discharge may come in question or in which it might be used as legal evidence of any fact.

(3) It shall be the duty of each county clerk to index alphabetically the name of each person whose discharge papers are recorded as provided in this section and to keep such index as a permanent record in such office. ***This index shall be a public record which shall be disclosed to any member of the public.*** The index ***shall not***[~~may~~] be bound with the book in which the discharge papers are recorded, ***but shall***[~~or may~~] be a separate bound index[~~, to be kept with the book in which the discharge papers are recorded~~].

(4) Except as provided in subsections (5) and (6) of this section, discharge papers recorded with the county clerk shall not be public records subject to public disclosure.

(5) Upon presentation of proper identification, the following individuals may inspect discharge papers recorded with the county clerk, obtain a certified or attested copy of discharge papers from the county clerk, or both:

(a) The veteran named in the discharge papers;

(b) His or her spouse, widow or widower, child eighteen (18) years of age or older, parent, grandparent, or sibling eighteen (18) years of age or older;

(c) Any person authorized by the veteran;

(d) A guardian, limited guardian, conservator, or limited conservator of a disabled or partially disabled veteran named in the discharge papers;

(e) An individual with power of attorney for the veteran;

(f) A funeral director handling funeral arrangements for the veteran; and

(g) The personal representative of the veteran's estate.

(6) (a) Discharge papers shall be subject to discovery under the federal and Kentucky rules of criminal and civil procedure.

(b) The county clerk shall comply with any proper court order pertaining to discharge papers.

(7) Upon presentation of proper identification, a veteran may ask the county clerk to destroy that veteran's discharge papers. Within fifteen (15) days of receiving the request, the county clerk shall destroy all copies of the discharge papers in whatever form they are being held.

The Committee on Local Government reported **HB 4** and **HB 156** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 4, AN ACT relating to parks and recreation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 97.035 is amended to read as follows:

(1) If two (2) or more political subdivisions determine to jointly establish, maintain, and conduct a park and recreation system or systems, which may include but shall not be limited to the establishment, maintenance, and conduct of zoos and museums, the legislative bodies of such counties, cities, or other districts involved may by ordinance, order, or resolution approve a plan for the establishment of such joint project and for the creation of a joint board representative of the

subdivisions involved, and possessed with all the powers and duties of KRS 97.010 to 97.050. This subsection authorizes the creation of a joint board by any two (2) or more cities or any city and county for purposes of establishment, maintenance, and conduct of zoos and the creation of another joint board for purposes of establishment, maintenance, and conduct of museums.

(2) Except in a county containing a consolidated local government, such board shall consist of not less than five (5) members. The plan shall provide for distribution of membership and all participating governmental units shall have representation thereon. The members of the board shall be appointed by the county judge/executive, mayor of the city, or governing body of the district, as the case may be, for terms of four (4) years to serve at the pleasure of the appointing authority. Vacancies shall be filled for unexpired terms by appointment of the authority appointing the member whose office is vacant. The terms of office of such members shall be staggered as provided by order or resolution of the political subdivisions concerned. Members of the board shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their duties.

(3) The board shall be a body corporate for all purposes, and shall elect from its membership a chairman, secretary, and treasurer. The treasurer shall execute a bond conditioned on the faithful performance of his or her duties sufficient in amount to cover funds coming into his or her hands. The premium on such bond shall be paid from board funds.

(4) Any park, playground, or recreation system operated jointly by two (2) or more political subdivisions as provided in KRS 97.010 (2), on June 19, 1958, shall be governed by this section.

(5) Notwithstanding subsections (1), (2), and (3) of this section, when a city of the first class and a county containing such city have in effect a compact under KRS 79.310 to 79.330, such city and county shall by joint action create a joint city/county department to maintain and conduct a park and recreational system or systems. In such event, the board shall be dissolved as a corporate entity and all assets and liabilities of the board shall be transferred to the joint department. An advisory board may be established by joint agreement of such city and county. Upon the establishment of a consolidated local government in a county where a city of the first class and a county containing such city have had in effect a cooperative compact pursuant to KRS 79.310 to 79.330, the joint department shall become a department of the consolidated local government and all assets and liabilities of the joint department shall be transferred to the consolidated local government. An advisory board may be established or maintained by a consolidated local government. Members of the advisory board shall be appointed pursuant to the provisions of KRS 67C.139 and shall serve at the pleasure of the mayor of the consolidated local government.

(6) Notwithstanding subsections (1), (2), and (3) of this section, any city, except a city of the first class, and a county, except a county containing a city of the first class, operating a joint system under this section may by joint action create a joint city/county department to maintain and conduct a park and recreational system or systems. In such event, the board shall be dissolved as a corporate entity and all assets and liabilities of the board shall be transferred to the joint department. An advisory board may be established by joint agreement of the city and county.

HB 156, AN ACT relating to county police forces.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 70.540 is amended to read as follows:

(1) The county judges/executive of the respective counties shall have and are hereby given the power, jurisdiction and authority to establish, appoint***,*** and maintain a county police force within their respective counties, all of the members and officers of which shall have and are hereby given jurisdiction coextensive with the whole county for which they are appointed. Such police force may consist of a chief and such member, rank and grade subordinate to the chief, and such clerical and skilled employees as the county judge/executive shall deem proper.

(2) All of the members and employees of the county police force shall be appointed by the county judge/executive and shall ***hold their positions for a term of four (4) years, during the incumbency of the county judge/executive making the appointment, except that officers may be removed by the county judge/executive for neglect of duty, improper conduct, or due to budgetary constraints.***

(3) If the county judge/executive decreases the number of county police officers, the youngest members in point of service shall be the first to be released and returned to the eligible list of the county police force, there to advance according to the rules of the force[~~serve for a term of one (1) year from the date of their respective appointments, unless sooner removed by the county judge/executive for neglect of duty or improper conduct~~].

(4) All members of the force shall be citizens of the United States not less than twenty-one (21) years of age and residents of the Commonwealth of Kentucky. None but discreet and sober persons shall be appointed to any position on said county police force. Each of the members of the said county police force shall take an oath, before the county judge/executive of their county, to faithfully, impartially and diligently perform the duties of their respective offices. Provided, however, that the chief officer of the county police force of any county may be designated, in the discretion of the county judge/executive of said county, as captain or any other appropriate title, and such county police force in any county may consist of one (1) or more commanding officers, as the county judge/executive of such county may deem proper or adequate.

The Committee on Appropriations and Revenue reported **HB 97** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 97, AN ACT relating to income tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the Revenue Cabinet;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 2001, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2001, that would otherwise terminate, and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

  (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

  (b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

  (c) Include interest income derived from obligations of sister states and political subdivisions thereof;

  (d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

  (e) Exclude Social Security and railroad retirement benefits subject to federal income tax;

  (f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

  (g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;

  (h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam;

  (i) 1. Exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.

    2. The "applicable amount" shall be:

      a. Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;

      b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;

      c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and

      d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

    3. As used in this paragraph:

a. "Distributions" includes, but is not limited to, any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;

b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and

c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;

(j) 1. a. Exclude the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and

b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.

2. The shareholder's basis of stock held in a S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;

(k) Exclude for taxable years beginning after December 31, 1998, to the extent not already excluded from gross income, any amounts paid for health insurance, or the value of any voucher or similar instrument used to provide health insurance, which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section;

(l) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;

(m) Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;

(n) Exclude any capital gains income attributable to property taken by eminent domain;

(o) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;

(p) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;~~[and]~~

(q) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted***; and***

(r) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202, minus any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families, and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

(c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(i) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;

(j) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;~~[and]~~

(k) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted***; and***

(l) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202, minus any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families, and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction;

(d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and

(e) "Taxable net income" in the case of a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

Section 2. The amendments contained in this Act shall apply for taxable years beginning after December 31, 2003.

The Committee on State Government reported **HB 1**, with Committee Substitute attached thereto, **HB 2, HB 40, HB 80, HB 94, HB 104, HCR 29, HCR 30,** and **HCR 39** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 1, AN ACT relating to executive branch state employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Business" means any corporation, limited liability corporation, partnership, limited liability partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted for profit;

(2) "Commission" means the Executive Branch Ethics Commission;

(3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;

(4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, ***aunt, uncle, nephew, niece,*** father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;

(5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; "gift" does not include gifts from family members, campaign contributions, or door prizes available to the public;

(6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;

(7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems board of trustees, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Occupational Safety and Health Review Commission, the Kentucky Board of Education, the Council on Postsecondary Education, and any person who holds a personal service contract to perform on a full-time basis for a period of time not less than six (6) months a function of any position listed in this subsection;

(8) "Official duty" means any responsibility imposed on a public servant by virtue of his position in the state service;

(9) "Public servant" means:

(a) The Governor;

(b) The Lieutenant Governor;

(c) The Secretary of State;

(d) The Attorney General;

(e) The Treasurer;

(f) The Commissioner of Agriculture;

(g) The Auditor of Public Accounts; and

(h) All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees;

(10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government. A public servant is employed by the agency by which his appointing authority is employed, unless his agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;

(11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(22) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(8);

(12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;

(13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of this section;

(14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency in return for payment by the state, including accepting a grant, but not including accepting a state entitlement fund disbursement;

(15) "Public agency" means any governmental entity;

(16) "Appointing authority" means the agency head or any person whom he has authorized by law to act on behalf of the agency with respect to employee appointments;

(17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else;

(18) "Directly involved" means to work on personally or to supervise someone who works on personally; and

(19) "Sporting event" means any professional or amateur sport, athletic game, contest, event, or race involving machines, persons, or animals, for which admission tickets are offered for sale and that is viewed by the public.

Section 2. KRS 11A.040 is amended to read as follows:

(1) A public servant, in order to further his own economic interests, or those of any other person, shall not knowingly disclose or use confidential information acquired in the course of his official duties.

(2) A public servant shall not knowingly receive, directly or indirectly, any interest or profit arising from the use or loan of public funds in his hands or to be raised through any state agency.

(3) A public servant shall not knowingly act as a representative or agent for the Commonwealth or any agency in the transaction of any business or regulatory action with himself, or with any business in which he or a member of his family has any interest greater than five percent (5%) of the total value thereof.

(4) A public servant shall not knowingly himself or through any business in which he owns or controls an interest of more than five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which he is employed or which he supervises, subject to the provisions of KRS 45A.340. This provision shall not apply to:

(a) A contract, purchase, or good faith negotiation made pursuant to KRS Chapter 416 relating to eminent domain; or

(b) Agreements which may directly or indirectly involve public funds disbursed through entitlement programs; or

(c) A public servant's spouse or child doing business with any state agency other than the agency by which the public servant is employed or which he supervises; or

(d) Purchases from a state agency that are available on the same terms to the general public or that are made at public auction.

(5) A public servant shall not knowingly accept compensation, other than that provided by law for public servants, for performance of his official duties without the prior approval of the commission.

(6) A former officer or public servant listed in KRS 11A.010(9)(a) to (g) shall not, within ***eighteen (18)***[~~six (6)~~] months of termination of his employment, knowingly by himself or through any business in which he owns or controls an interest of at least five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which he was employed. This provision shall not apply to a contract, purchase, or good faith negotiation made under KRS Chapter 416 relating to eminent domain or to agreements that may directly or indirectly involve public funds disbursed through entitlement programs. This provision shall not apply to purchases from a state agency that are available on the same terms to the general public or that are made at public auction. This provision shall not apply to former officers of the Department of Public Advocacy whose continued representation of clients is necessary in order to prevent an adverse effect on the client.

(7) A present or former officer or public servant listed in KRS 11A.010(9)(a) to (g) shall not, within ***eighteen (18)***[~~six (6)~~] months following termination of his office or employment, accept employment, compensation, or other economic benefit from any person or business that contracts or does business with, or is regulated by, the state in matters in which he was directly involved during the last thirty-six (36) months of his tenure. This provision shall not prohibit an individual from returning to the same business, firm, occupation, or profession in which he was involved prior to taking office or beginning his term of employment, or for which he received, prior to his state employment, a professional degree or license, provided that, for a period of ***eighteen (18)***[~~six (6)~~] months, he personally refrains from working on any matter in which he was directly involved during the last thirty-six (36) months of his tenure in state government. This subsection shall not prohibit the performance of ministerial functions including, but not limited to, filing tax returns, filing applications for permits or licenses, or filing incorporation papers, nor shall it prohibit the former officer or public servant from receiving public funds disbursed through entitlement programs.

(8) A former public servant shall not act as a lobbyist or lobbyist's principal in matters in which he was directly involved during the last thirty-six (36) months of his tenure for a period of ***two (2) years***[~~one (1) year~~] after the latter of:

(a) The date of leaving office or termination of employment; or

(b) The date the term of office expires to which the public servant was elected.

(9) A former public servant shall not represent a person or business before a state agency in a matter in which the former public servant was directly involved during the last thirty-six (36) months of his tenure, for a period of one (1) year after the latter of:

(a) The date of leaving office or termination of employment; or

(b) The date the term of office expires to which the public servant was elected.

(10) Without the approval of his appointing authority, a public servant shall not accept outside employment from any person or business that does business with or is regulated by the state agency for which the public servant works or which he supervises, unless the outside employer's relationship with the state agency is limited to the receipt of entitlement funds.

(a) The appointing authority shall review administrative regulations established under KRS Chapter 11A when deciding whether to approve outside employment for a public servant.

(b) The appointing authority shall not approve outside employment for a public servant if the public servant is involved in decision-making or recommendations concerning the person or business from which the public servant seeks outside employment or compensation.

(c) The appointing authority, if applicable, shall file quarterly with the Executive Branch Ethics Commission a list of all employees who have been approved for outside employment along with the name of the outside employer of each.

(11) The prohibitions imposed by subsection (5) or (10) of this section shall not apply to Professional Golfers' Association class A members who teach golf lessons and receive a fee or lesson charge at golf courses owned and operated by the Kentucky Department of Parks. Instruction provided by an employee of the Commonwealth shall only be given while the employee is on his or her own personal time. The commissioner of the Department of Parks shall promulgate administrative regulations to establish guidelines for the process by which Professional Golfers' Association class A members are approved to teach golf lessons at Kentucky Department of Parks-owned golf courses. The exception granted by this subsection is in recognition of the benefits that will accrue to the Kentucky Department of Parks due to increased participation at state-owned golf courses.

SECTION 3. A NEW SECTION OF KRS CHAPTER 11A IS CREATED TO READ AS FOLLOWS:

(1) A member of the family of the Governor, Lieutenant Governor, secretary of the Governor's cabinet, or a cabinet secretary shall not be employed or appointed to an office or position in the executive branch of state government.

(2) The Governor, Lieutenant Governor, secretary of the Governor's cabinet, or a cabinet secretary shall not advocate or cause the employment, appointment, promotion, transfer, or advancement of a member of his or her family to an office or position in the executive branch of state government.

(3) The Governor, Lieutenant Governor, secretary of the Governor's cabinet, or a cabinet secretary shall not participate in any action relating to the disciplining of a member of his or her family in the executive branch of state government.

(4) This section shall not affect any family members employed in the executive branch of state government prior to the effective date of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

A former employee who is receiving a retirement allowance from the Kentucky Employees Retirement System shall not be eligible for employment or reinstatement in a position covered by this chapter for a period of two (2) years after the date of retirement other than in an interim position not to exceed four (4) months in a calendar year.

Section 5. KRS 18A.032 is amended to read as follows:

(1) Except as provided by the provisions of this chapter, the secretary may refuse to examine an applicant; or, after examination, may disqualify an applicant, remove his name from a register, refuse to certify any eligible on a register, or may consult with the appointing authority in taking steps to remove such person already appointed if:

(a) It is found that he does not meet any one (1) of the preliminary requirements established for the examination for the class of position;

(b) He is unable to perform the duties of the class;

(c) He has made a false statement of material fact in his application;

(d) He has used or attempted to use political pressure or bribery to secure an advantage in the examination;

(e) He has directly or indirectly obtained information regarding the examination to which, as an applicant, he was not entitled;

(f) He has failed to submit his application correctly or within the prescribed time limits;

(g) He has taken part in the compilation, administration, or correction of the examination for which he is an applicant;

(h) He has previously been dismissed from a position in the state service for cause or has resigned while charges for dismissal for cause of which he had knowledge were pending;

(i) He has been convicted of a felony within the preceding five (5) years and his civil rights have not been restored or he has not been pardoned by the Governor;

(j) He has been convicted of a job related misdemeanor, except that convictions for violations of traffic regulations shall not constitute grounds for disqualification; or

(k) He has otherwise willfully violated the provisions of this chapter.

(2) An eligible may be removed from a register:

(a) If the eligible cannot be located by postal authorities at the last address provided by the eligible;

(b) If the eligible responds in writing that he no longer desires consideration for position in that class;

(c) If the eligible declines an offer of probationary appointment to the class for which the register was established;

(d) If it is shown that the eligible is not qualified or is unsuitable for appointment to the class for which the register is established;

(e) If the eligible fails to reply within a period of ten (10) calendar days of the receipt of the written request of the appointing authority for an interview, or fails to appear for an interview which he has scheduled with the appointing authority without good cause;

(f) If the eligible accepts an appointment and fails to present himself for duty at the time and place agreed to without giving reasons for the delay satisfactory to the appointing authority; or

(g) If the eligible states in writing that he is not available for appointment or does not wish to be considered for appointment.

(3) When an eligible notifies the cabinet in writing that he is unavailable for employment or employment consideration, the cabinet may remove the name of that eligible from the appropriate register without further notification to the person.

(4) When the cabinet is notified in writing by an appointing authority that an eligible has accepted a bona fide offer of probationary appointment to any position, effective on a specified date, his name may be removed from the register for all classes for which the maximum salary is the same or less than that of the class to which he has been appointed.

(5) An applicant currently or formerly employed in an unclassified position under paragraphs (d), (e), (g), (h), and (i) of subsection (1) of Section 6 of this Act, who did not previously have merit system status in a classified position, shall not be eligible for certification on a register for a classified position for a period of one (1) year from the date of

termination or resignation from the unclassified position.

Section 6. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the Governor's Cabinet, and the Office of Program Administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television and the executive director and deputy executive director of the Education Professional Standards Board;

(f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section***, subject to the limitation imposed under subsection (9) of this section***;

(h) One (1) additional principal assistant or deputy***, subject to the limitation imposed under subsection (9) of this section,*** as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

(p) Interim employees;

(q) Officers and members of the state militia;

(r) State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;

(s) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(t) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(u) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(v) County and Commonwealth's attorneys and their respective appointees;

(w) Chief district engineers and the state highway engineer;

(x) Veterinarians employed as such by the Kentucky State Racing Commission or the Kentucky Harness Racing Commission;

(y) Employees of the Kentucky Peace Corps;

(z) Employees of the Council on Postsecondary Education;

(aa) Chief information officer of the Commonwealth; and

(ab) Employees of the Kentucky Commission on Community Volunteerism and Service.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided in KRS 18A.005 to 18A.200.

(6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.

(7) On August 15, 2000, all certified and equivalent personnel, all unclassified personnel, and all certified and equivalent and unclassified vacant positions in the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B personnel system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. The personnel officers who administer the personnel systems under KRS Chapter 151B and KRS Chapter 18A shall exercise the necessary administrative procedures to effect the change in personnel authority. No certified or equivalent employee in the Department for Adult Education and Literacy shall suffer any penalty in the transfer.

(8) On August 15, 2000, secretaries and assistants attached to policymaking positions in the Department for Technical Education and the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. No employee shall suffer any penalty in the transfer.

(9) The total number of principal assistant positions authorized by paragraphs (g) and (h) of subsection (1) of this section shall not exceed fifty (50) in the executive branch.

The Committee Substitute to **HB 1** is as follows:

HB 1, AN ACT relating to executive branch state employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Business" means any corporation, limited liability corporation, partnership, limited liability partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted for profit;

(2) "Commission" means the Executive Branch Ethics Commission;

(3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;

(4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, ***aunt, uncle, nephew, niece,*** father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;

(5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration

of equal or greater value is received; "gift" does not include gifts from family members, campaign contributions, or door prizes available to the public;

(6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;

(7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems board of trustees, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Occupational Safety and Health Review Commission, the Kentucky Board of Education, the Council on Postsecondary Education, and any person who holds a personal service contract to perform on a full-time basis for a period of time not less than six (6) months a function of any position listed in this subsection;

(8) "Official duty" means any responsibility imposed on a public servant by virtue of his position in the state service;

(9) "Public servant" means:

(a) The Governor;

(b) The Lieutenant Governor;

(c) The Secretary of State;

(d) The Attorney General;

(e) The Treasurer;

(f) The Commissioner of Agriculture;

(g) The Auditor of Public Accounts; and

(h) All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees;

(10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government. A public servant is employed by the agency by which his appointing authority is employed, unless his agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;

(11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(22) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(8);

(12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;

(13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of this section;

(14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency in return for payment by the state, including accepting a grant, but not including accepting a state entitlement fund disbursement;

(15) "Public agency" means any governmental entity;

(16) "Appointing authority" means the agency head or any person whom he has authorized by law to act on behalf of the agency with respect to employee appointments;

(17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else;

(18) "Directly involved" means to work on personally or to supervise someone who works on personally; and

(19) "Sporting event" means any professional or amateur sport, athletic game, contest, event, or race involving machines, persons, or animals, for which admission tickets are offered for sale and that is viewed by the public.

Section 2. KRS 11A.040 is amended to read as follows:

(1) A public servant, in order to further his own economic interests, or those of any other person, shall not knowingly disclose or use confidential information acquired in the course of his official duties.

(2) A public servant shall not knowingly receive, directly or indirectly, any interest or profit arising from the use or loan of public funds in his hands or to be raised through any state agency.

(3) A public servant shall not knowingly act as a representative or agent for the Commonwealth or any agency in the transaction of any business or regulatory action with himself, or with any business in which he or a member of his family has any interest greater than five percent (5%) of the total value thereof.

(4) A public servant shall not knowingly himself or through any business in which he owns or controls an interest of more than five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which he is employed or which he supervises, subject to the provisions of KRS 45A.340. This provision shall not apply to:

(a) A contract, purchase, or good faith negotiation made pursuant to KRS Chapter 416 relating to eminent domain; or

(b) Agreements which may directly or indirectly involve public funds disbursed through entitlement programs; or

(c) A public servant's spouse or child doing business with any state agency other than the agency by which the public servant is employed or which he supervises; or

(d) Purchases from a state agency that are available on the same terms to the general public or that are made at public auction.

(5) A public servant shall not knowingly accept compensation, other than that provided by law for public servants, for performance of his official duties without the prior approval of the commission.

(6) A former officer or public servant listed in KRS 11A.010(9)(a) to (g) shall not, within ***eighteen (18)***[~~six (6)~~] months of termination of his employment, knowingly by himself or through any business in which he owns or controls an interest of at least five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which he was employed. This provision shall not apply to a contract, purchase, or good faith negotiation made under KRS Chapter 416 relating to eminent domain or to agreements that may directly or indirectly involve public funds disbursed through entitlement programs. This provision shall not apply to purchases from a state agency that are available on the same terms to the general public or that are made at public auction. This provision shall not apply to former officers of the Department of Public Advocacy whose continued representation of clients is necessary in order to prevent an adverse effect on the client.

(7) A present or former officer or public servant listed in KRS 11A.010(9)(a) to (g) shall not, within ***eighteen (18)***[~~six (6)~~] months following termination of his office or employment, accept employment, compensation, or other economic benefit from any person or business that contracts or does business with, or is regulated by, the state in matters in which he was directly involved during the last thirty-six (36) months of his tenure. This provision shall not prohibit an individual from returning to the same business, firm, occupation, or profession in which he was involved prior to taking office or beginning his term of employment, or for which he received, prior to his state employment, a professional degree or license, provided that, for a period of ***eighteen (18)***[~~six (6)~~] months, he personally refrains from working on any matter in which he was directly involved during the last thirty-six (36) months of his tenure in state government. This subsection shall not prohibit the performance of ministerial functions including, but not limited to, filing tax returns, filing applications for permits or licenses, or filing incorporation papers, nor shall it prohibit the former officer or public servant from receiving public funds disbursed through entitlement programs.

(8) A former public servant shall not act as a lobbyist or lobbyist's principal[~~ in matters in which he was directly involved during the last thirty-six (36) months of his tenure~~] for a period of ***two (2) years***[~~one (1) year~~] after the latter of:

(a) The date of leaving office or termination of employment; or

(b) The date the term of office expires to which the public servant was elected.

(9) A former public servant shall not represent a person or business before a state agency in a matter in which the former public servant was directly involved during the last thirty-six (36) months of his tenure, for a period of one (1) year after the latter of:

(a) The date of leaving office or termination of employment; or

(b) The date the term of office expires to which the public servant was elected.

(10) Without the approval of his appointing authority, a public servant shall not accept outside employment from any person or business that does business with or is regulated by the state agency for which the public servant works or which he supervises, unless the outside employer's relationship with the state agency is limited to the receipt of entitlement funds.

(a) The appointing authority shall review administrative regulations established under KRS Chapter 11A when deciding whether to approve outside employment for a public servant.

(b) The appointing authority shall not approve outside employment for a public servant if the public servant is involved in decision-making or recommendations concerning the person or business from which the public servant seeks outside employment or compensation.

(c) The appointing authority, if applicable, shall file quarterly with the Executive Branch Ethics Commission a list of all employees who have been approved for outside employment along with the name of the outside employer of each.

(11) The prohibitions imposed by subsection (5) or (10) of this section shall not apply to Professional Golfers' Association class A members who teach golf lessons and receive a fee or lesson charge at golf courses owned and operated by the Kentucky Department of Parks. Instruction provided by an employee of the Commonwealth shall only be given while the employee

is on his or her own personal time. The commissioner of the Department of Parks shall promulgate administrative regulations to establish guidelines for the process by which Professional Golfers' Association class A members are approved to teach golf lessons at Kentucky Department of Parks-owned golf courses. The exception granted by this subsection is in recognition of the benefits that will accrue to the Kentucky Department of Parks due to increased participation at state-owned golf courses.

SECTION 3. A NEW SECTION OF KRS CHAPTER 11A IS CREATED TO READ AS FOLLOWS:

(1) A member of the family of the Governor, Lieutenant Governor, secretary of the Governor's cabinet, or a cabinet secretary shall not be employed or appointed to an office or position in the executive branch of state government.

(2) The Governor, Lieutenant Governor, secretary of the Governor's cabinet, or a cabinet secretary shall not advocate or cause the employment, appointment, promotion, transfer, or advancement of a member of his or her family to an office or position in the executive branch of state government.

(3) The Governor, Lieutenant Governor, secretary of the Governor's cabinet, or a cabinet secretary shall not participate in any action relating to the disciplining of a member of his or her family in the executive branch of state government.

(4) This section shall not affect any family members employed in the executive branch of state government prior to the effective date of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

A former employee whose date of retirement under the Kentucky Employees Retirement System occurs on or after the effective date of this Act shall not be eligible for employment or reinstatement in a position covered by this chapter for a period of two (2) years after the date of retirement other than in an interim position not to exceed four (4) months in a calendar year.

Section 5. KRS 18A.032 is amended to read as follows:

(1) Except as provided by the provisions of this chapter, the secretary may refuse to examine an applicant; or, after examination, may disqualify an applicant, remove his name from a register, refuse to certify any eligible on a register, or may consult with the appointing authority in taking steps to remove such person already appointed if:
    (a) It is found that he does not meet any one (1) of the preliminary requirements established for the examination for the class of position;
    (b) He is unable to perform the duties of the class;
    (c) He has made a false statement of material fact in his application;
    (d) He has used or attempted to use political pressure or bribery to secure an advantage in the examination;
    (e) He has directly or indirectly obtained information regarding the examination to which, as an applicant, he was not entitled;
    (f) He has failed to submit his application correctly or within the prescribed time limits;
    (g) He has taken part in the compilation, administration, or correction of the examination for which he is an applicant;
    (h) He has previously been dismissed from a position in the state service for cause or has resigned while charges for dismissal for cause of which he had knowledge were pending;
    (i) He has been convicted of a felony within the preceding five (5) years and his civil rights have not been restored or he has not been pardoned by the Governor;
    (j) He has been convicted of a job related misdemeanor, except that convictions for violations of traffic regulations shall not constitute grounds for disqualification; or
    (k) He has otherwise willfully violated the provisions of this chapter.

(2) An eligible may be removed from a register:
    (a) If the eligible cannot be located by postal authorities at the last address provided by the eligible;
    (b) If the eligible responds in writing that he no longer desires consideration for position in that class;
    (c) If the eligible declines an offer of probationary appointment to the class for which the register was established;
    (d) If it is shown that the eligible is not qualified or is unsuitable for appointment to the class for which the register is established;
    (e) If the eligible fails to reply within a period of ten (10) calendar days of the receipt of the written request of the appointing authority for an interview, or fails to appear for an interview which he has scheduled with the appointing authority without good cause;
    (f) If the eligible accepts an appointment and fails to present himself for duty at the time and place agreed to without giving reasons for the delay satisfactory to the appointing authority; or
    (g) If the eligible states in writing that he is not available for appointment or does not wish to be considered for appointment.

(3) When an eligible notifies the cabinet in writing that he is unavailable for employment or employment consideration, the cabinet may remove the name of that eligible from the appropriate register without further notification to the person.

(4) When the cabinet is notified in writing by an appointing authority that an eligible has accepted a bona fide offer of probationary appointment to any position, effective on a specified date, his name may be removed from the register for all classes for which the maximum salary is the same or less than that of the class to which he has been appointed.

(5) An applicant currently or formerly employed in an unclassified position under paragraphs (d), (e), (g), (h), and (i) of subsection (1) of Section 6 of this Act, who did not previously have merit system status in a classified position, shall not be eligible for certification on a register for a classified position for a period of one (1) year from the date of termination or resignation from the unclassified position.

Section 6. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the Governor's Cabinet, and the Office of Program Administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television and the executive director and deputy executive director of the Education Professional Standards Board;

(f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section***, subject to the limitation imposed under subsection (9) of this section***;

(h) One (1) additional principal assistant or deputy***, subject to the limitation imposed under subsection (9) of this section,*** as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

(p) Interim employees;

(q) Officers and members of the state militia;

(r) State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;

(s) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(t) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(u) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(v) County and Commonwealth's attorneys and their respective appointees;

(w) Chief district engineers and the state highway engineer;

(x) Veterinarians employed as such by the Kentucky State Racing Commission or the Kentucky Harness Racing Commission;

(y) Employees of the Kentucky Peace Corps;

(z) Employees of the Council on Postsecondary Education;

(aa) Chief information officer of the Commonwealth; and

(ab) Employees of the Kentucky Commission on Community Volunteerism and Service.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided in KRS 18A.005 to 18A.200.

(6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.

(7) On August 15, 2000, all certified and equivalent personnel all unclassified personnel, and all certified and equivalent and unclassified vacant positions in the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B personnel system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. The personnel officers who administer the personnel systems under KRS Chapter 151B and KRS Chapter 18A shall exercise the necessary administrative procedures to effect the change in personnel authority. No certified or equivalent employee in the Department for Adult Education and Literacy shall suffer any penalty in the transfer.

(8) On August 15, 2000, secretaries and assistants attached to policymaking positions in the Department for Technical Education and the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. No employee shall suffer any penalty in the transfer.

(9) The total number of principal assistant positions authorized by paragraphs (g) and (h) of subsection (1) of this section shall not exceed fifty (50) in the executive branch.

Section 7. The following clarifications of the application of certain provisions in this Act are made:

(1) The increase from six (6) months to eighteen (18) months in subsections (6) and (7) of Section 2 of this Act shall apply only to those officers or public servants whose date of termination of employment or office occurs on or after the effective date of this Act.

(2) The increase from one (1) year to two (2) years in subsection (8) of Section 2 of this Act shall apply only to those former public servants whose date of termination of employment or expiration of term of elected office occurs on or after the effective date of this Act.

HB 2, AN ACT relating to noncompetitive negotiation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.095 is amended to read as follows:

(1) A contract may be made by noncompetitive negotiation only[~~ for sole source purchases, or when competition is not~~

~~feasible, as determined by the purchasing officer in writing prior to award, under administrative regulations promulgated by the secretary of the Finance and Administration Cabinet or the governing boards of universities operating under KRS Chapter 164A, or when emergency conditions exist. Sole source is a situation in which there is only one (1) known capable supplier of a commodity or service, occasioned by the unique nature of the requirement, the supplier, or market conditions. Insofar as it is practical, no less than three (3) suppliers shall be solicited to submit written or oral quotations whenever it is determined that competitive sealed bidding is not feasible. Award shall be made to the supplier offering the best value. The names of the suppliers submitting quotations and the date and amount of each quotation shall be placed in the procurement file and maintained as a public record. Competitive bids may not be required~~]:

(a) For contractual services where no competition exists, such as[~~ telephone service,~~] electrical energy[~~,~~] and other public utility services;

(b) Where rates are fixed by law or ordinance;

(c) For library books;

(d) For commercial items that are purchased for resale;

(e) For interests in real property;

(f) For visiting speakers, professors, expert witnesses, and performing artists;

(g) For personal service contracts executed pursuant to KRS 45A.690***(1) (d) and (f) and 45A.720;***[~~ to 45A.725; and~~]

(h) For agricultural products in accordance with KRS 45A.645***; and***

(i) For an emergency.

(2) The chief procurement officer, the head of a using agency, or a person authorized in writing as the designee of either officer may make or authorize others to make emergency procurements when an emergency[~~ condition~~] exists.

(3) ***"Emergency" means any incident or situation which poses a major threat to public safety so as to cause, or threaten to cause, loss of life, serious injury, significant damage to property, or major harm to public health or the environment***[~~An emergency condition is a situation which creates a threat or impending threat to public health, welfare, or safety such as may arise by reason of fires, floods, tornadoes, other natural or man caused disasters, epidemics, riots, enemy attack, sabotage, explosion, power failure, energy shortages, transportation emergencies, equipment failures, state or federal legislative mandates, or similar events. The existence of the emergency condition creates an immediate and serious need for services, construction, or items of tangible personal property that cannot be met through normal procurement methods and the lack of which would seriously threaten the functioning of government, the preservation or protection of property, or the health or safety of any person~~].

(4) The Finance and Administration Cabinet may negotiate directly for the purchase of contractual services, supplies, materials, or equipment in bona fide emergencies regardless of estimated costs. The existence of the emergency shall be fully explained, in writing, by the head of the agency for which the purchase is to be made. The explanation shall be approved by the secretary of the Finance and Administration Cabinet and shall include the name of the vendor receiving the contract along with any other price quotations and a written determination for selection of the vendor receiving the contract. This information shall be filed with the record of all such purchases and made available to the public. Where practical, standard specifications shall be followed in making emergency purchases. In any event, every effort should be made to effect a competitively established price for purchases made by the state.

(5) The following entities may use noncompetitive negotiation for sole source purchases when competition is not feasible or when an emergency exists:

(a) Governing boards of state universities in accordance with KRS 164A.575; and

(b) Any other contracting body, as defined in KRS 45A.690, that has statutory exemptions from KRS Chapter 45A.

Sole source is a situation in which there is only one (1) known capable supplier of a commodity or service, occasioned by the unique nature of the requirement, the supplier, or market conditions. Insofar as it is practical, no fewer than three (3) suppliers shall be solicited to submit written or oral quotations whenever it is determined that competitive sealed bidding is not feasible. Awards shall be made to the supplier offering the best value. The names of the suppliers submitting quotations and the date and amount of each quotation shall be placed in the procurement file and maintained as a public record.

HB 40, AN ACT designating Muhlenberg County as the birthplace of thumb picking as a style of guitar playing.

WHEREAS, thumb picking is a style of playing guitar where the thumb establishes a rhythm and one or more other fingers simultaneously play the melody, making a composite sound of multiple guitars playing at the same time; and

WHEREAS, Alice DeArmond Jones of Dunmor in Muhlenberg County is attributed with being one of the earliest artists using the guitar style of thumb picking, passing it on to her son, Kennedy Jones, who was credited with popularizing the style, which began to spread through the region and then nationally; and

WHEREAS, the National Thumb Pickers Hall of Fame is in Muhlenberg County, Kentucky; and

WHEREAS, it is fitting and proper to record the origins of significant cultural contributions, thumb picking being a distinct style of guitar playing recognized nationally and having had many promoters of the style such as Chet Atkins, Merle Travis, Ike Everly, the Everly Brothers, Grandpa Jones, and countless others;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

Muhlenberg County is designated as the birthplace of the thumb picking style of guitar playing.

HB 80, AN ACT relating to the state lottery.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154A.020 is amended to read as follows:

(1) There is hereby created and established a state lottery which shall be administered by an independent, de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a public body corporate and politic to be known as the Kentucky Lottery Corporation. The corporation shall be deemed a public agency within the meaning of KRS 61.805 and 61.870. This corporation shall be managed in such a manner that enables the people of the Commonwealth to benefit from its profits and to enjoy the best possible lottery games. The General Assembly hereby recognizes that the operations of a lottery are unique activities for state government and that a corporate structure will best enable the lottery to be managed in an entrepreneurial and business-like manner.~~[It is the intent of the General Assembly that government programs and services shall not be mentioned in advertising or promoting a lottery.]~~ It is~~[also]~~ the intent of the General Assembly that the Kentucky Lottery Corporation shall be accountable to the Governor, the General Assembly and the people of the Commonwealth through a system of audits, reports and thorough financial disclosure as required by this chapter.

(2) The existence of the corporation shall begin only upon confirmation of the members of the board by the Senate as provided in KRS 154A.030. Until the time of such confirmation, no business shall be conducted on behalf of the lottery.

(3) Notwithstanding any other provision of law to the contrary, no official action of any form shall be taken by the board at any time unless a majority of the members of the board shall have been confirmed by the Senate as provided in KRS 154A.030. Any action taken on behalf of the lottery when less than a majority of the members of the board shall have been confirmed shall be of no effect.

HB 94, AN ACT relating to sponsorship of bills.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

If a bill passes the Senate or the House of Representatives, and a substantially similar bill is pending in the other chamber, the primary sponsors of each of the bills may jointly petition the Committee on Committees in each chamber to authorize co-sponsorship by members of both chambers. With the written approval of both the Committee on Committees in the Senate and the Committee on Committees in the House of Representatives, members from both chambers may be listed as sponsors of the bill which first passed its chamber of origin as follows:

(1) The primary Senate sponsor shall be listed as first sponsor of the bill if it is a Senate bill and the primary House sponsor shall be listed as the first sponsor of the bill if it is a House bill. The primary sponsor from the other chamber shall be listed immediately after the first sponsor on the bill; and

(2) Co-sponsors from both chambers may be listed after the two (2) primary sponsors, with Senate co-sponsors listed first on Senate bills, and House of Representatives co-sponsors listed first on House bills. Co-sponsors from the other chamber shall be listed immediately after the co-sponsors in the chamber of origin.

HB 104, AN ACT designating the official state repertory theater.

WHEREAS, the Horse Cave Theatre in Hart County has produced over 130 plays in its 27 years of existence; and

WHEREAS, the theater has brought entertainment to more than half a million people; and

WHEREAS, the theater offers cultural opportunities usually only found in metropolitan areas; and

WHEREAS, the theater continues to maintain high artistic and professional standards in the demanding repertory format; and

WHEREAS, Horse Cave Theatre through its Kentucky Voices program has produced 17 plays by Kentucky playwrights; and

WHEREAS, the theater's Young Performers Production, Student Theatre Workshop, apprentice programs, and acting classes educate local students and encourage aspiring actors and playwrights in pursuit of their dreams; and

WHEREAS, the theater's Educational Programs impact the lives of 10,000 Kentucky students every year; and

WHEREAS, the Horse Cave Theatre has produced "Love Letters" by A. R. Gurney, featuring television and film star Annie Potts; and

WHEREAS, Annie Potts has joined the Horse Cave Theatre Board of Directors; and

WHEREAS, Horse Cave Theatre is one of the few theaters in the United States still producing plays in rotating repertory;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The Horse Cave Repertory Theatre located in Hart County, Kentucky, is named and designated as the official state repertory theater.

HCR 29, A CONCURRENT RESOLUTION confirming the reappointment of Jennifer M. Headdy to the Kentucky Long-Term Policy Research Center Board for a term expiring October 6, 2007.

WHEREAS, KRS 7B.030 requires the Governor to appoint six at-large members of the Kentucky Long Term Policy Research Center Board, subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by Executive Order 2003-1026, dated October 14, 2003, the Governor reappointed Jennifer M. Headdy of Henderson, Kentucky, representing at-large members, and submitted her reappointment for legislative confirmation; and

WHEREAS, the House of Representatives and the Senate find that Jennifer M. Headdy meets the age and residency requirements of KRS 7B.030 and has demonstrated an interest in the well-being and development of the Commonwealth, as required by that statute;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate do confirm the reappointment of Jennifer M. Headdy to the Kentucky Long-Term Policy Research Center Board for a term expiring October 6, 2007.

Section 2. The Clerk of the House of Representatives shall send a copy of this Resolution, and notification of its adoption, to Ms. Jennifer M. Headdy, 914 North Main Street, Henderson, Kentucky 42420 and to Governor Ernie Fletcher, Room 100, State Capitol, Frankfort, Kentucky 40601.

HCR 30, A CONCURRENT RESOLUTION confirming the reappointment of Daniel Hall to the Kentucky Long-Term Policy Research Center Board for a term expiring October 6, 2007.

WHEREAS, KRS 7B.030 requires the Governor to appoint six at-large members of the Kentucky Long-Term Policy Research Center Board, subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by Executive Order 2003-1026, dated October 14, 2003, the Governor reappointed Daniel Hall of Louisville, Kentucky, representing at-large members, and submitted his reappointment for legislative confirmation; and

WHEREAS, the House of Representatives and the Senate find that Daniel Hall meets the age and residency requirements of KRS 7B.030 and has demonstrated an interest in the well-being and development of the Commonwealth, as required by that statute;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate do confirm the reappointment of Daniel Hall to the Kentucky Long-Term Policy Research Center Board for a term expiring October 6, 2007.

Section 2. The Clerk of the House of Representatives shall send a copy of this Resolution, and notification of its adoption, to Mr. Daniel Hall, 2200 Wynnewood Circle, Louisville, Kentucky 40222 and to Governor Ernie Fletcher, Room 100, State Capitol, Frankfort, Kentucky 40601.

HCR 39, A CONCURRENT RESOLUTION confirming the appointment of Marshall D. Slagle to the Kentucky Long-Term Policy Research Center Board to serve the remainder of an unexpired term ending October 6, 2004.

WHEREAS, KRS 7B.030 requires the Governor to appoint six at-large members of the Kentucky Long Term Policy Research Center Board, subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by Executive Order 2003-1258, dated December 8, 2003, the Governor appointed Marshall D. Slagle to replace Sheila Crist Kruzner, Union, who has resigned, and submitted his reappointment for legislative confirmation by letter dated December 11, 2003; and

WHEREAS, the House of Representatives and the Senate find that Marshall D. Slagle meets the age and residency requirements of KRS 7B.030 and has demonstrated an interest in the well-being and development of the Commonwealth, as required by that statute;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate do confirm the appointment of Marshall D. Slagle to the Kentucky Long-Term Policy Research Center Board to serve the remainder of an unexpired term ending October 6, 2004.

Section 2. The Clerk of the House of Representatives shall send a copy of this Resolution, and notification of its adoption, to Mr. Marshall D. Slagle, 2044 Greenup Street, Covington, Kentucky 41014 and to Governor Ernie Fletcher, Room 100, State Capitol, Frankfort, Kentucky 40601.

Motions, Petitions, and Communications

Representative Adkins moved that the posting requirement be waived retroactively on **HB 7, 29, 89, 139,** and **225**.
Agreed.

Representative Palumbo moved the adoption of the following **Legislative Citation No. 6**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of James E. Monthie, January 20, 1950 - January 10, 2004, and respectfully joins with Representative Ruth Ann Palumbo in expressing deepest sympathy to the Monthie Family and all those who share in the loss of this distinguished citizen. The son of Ken and Kate Monthie, he is additionally survived by his cherished wife, Paula Baker Monthie; beloved daughters, Jessica and Mollie; siblings, Sherry, Dave, Judy, Mark, Beverly, Phyllis, Jeff and Alan; and, a host of other family members and loved ones. A dedicated employee of Lexair, this esteemed citizen was a graduate of Bryan Station High School and Franklin College, where he majored in English and Philosophy and was Valedictorian of his class, and is remembered on this day for the many and generous contributions he made to his family, friends and community. James E. Monthie will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, Kentucky, this thirteenth day of January, in the year two thousand and four.

Legislative Citation No. 6 was adopted without objection.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions.
Agreed.

Introduction of Bills and Resolutions

HB 260, by Representative Burch: AN ACT relating to the Kentucky Early Intervention System.

HB 261, by Representative Feeley: AN ACT relating to school beverages.

HB 262, by Representative Westrom: AN ACT relating to accessible electronic information for the disabled, and making an appropriation therefor.

HB 263, by Representative Graham: AN ACT relating to the dissemination of public information.

HB 264, by Representative Graham: AN ACT relating to crimes and punishments.

HB 265, by Representative Nunn: AN ACT relating to crimes and punishments.

HB 266, by Representative Damron: AN ACT relating to guardianship.

HB 267, by Representative Bather: AN ACT relating to Medicaid, declaring an emergency, and making an appropriation therefor.

HB 268, by Representatives Hoover and Nunn: AN ACT relating to Commonwealth individual development accounts.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Elections, Constitutional Amendments, and Intergovernmental Relations: **HB 50, 208, 209, 210, 211**

Representative Damron moved that **HB 5** be withdrawn. Agreed.

Representative Montell moved that **HB 101** be withdrawn. Agreed.

Representative Sims moved that **HB 121** be withdrawn. Agreed.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills:

HB 1, Representative Buckingham

HB 2, Representative Buckingham

HB 40, Representative Baugh

HB 69, Representative Hall

HB 77, Representative Draud

HB 94, Representatives Hoffman, Marcotte, and Callahan

HB 95, Representative Hall

HB 97, Representatives Mobley, Nunn, and Ford

HB 105, Representative Bratcher

HB 106, Representative Hall

HB 113, Representatives Mobley, Sims, Buckingham, Rand, Hoffman, Ford, Meeks, Pasley, Hall, and T. Thompson

HB 178, Representative Hall

HB 192, Representative Hall

HB 195, Representative Hall

HB 220, Representative Coleman

Announcements

The following meetings were announced:

Budget Review Subcommittee on Economic Development and Energy, Natural Resources, and Environmental Protection, meeting canceled.

Representative Adkins moved to suspend the rules to allow the House to recess until 7:00 P.M. for the Governor's State of the Commonwealth address. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that floor privileges be granted to Constitutional Officers and invited guests. Agreed.

The Speaker welcomed guests.

Representative Adkins moved that the House and Senate resolve into Joint Session. Agreed.

Joint Session

The Chief Doorkeeper announced the arrival of the President of the Senate.

The President of the Senate assumed the Chair and called the Joint Session to order.

Prayer by Reverend Father Jerome C. Britt, Immaculate Heart of Mary, Burlington, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the flag.

Representative Adkins moved to dispense with a call of the roll. Agreed.

The Chief Doorkeeper announced the arrival of the Governor of the Commonwealth of Kentucky, The Honorable Ernie Fletcher.

Governor Ernie Fletcher addressed the Joint Session of the General Assembly as follows:

President Williams, Speaker Richards, and members of the General Assembly;

Chief Justice Lambert and members of the Judiciary;

Cabinet officers and other members of the Executive branch;

Constitutional officers;

And my fellow Kentuckians:

I have been in office for just 36 days and during this honeymoon period, I have enjoyed the amount of press I've been getting. But it does remind me of what newly elected Governor Ronald Reagan said regarding his early press: "If this has been a honeymoon, then I've been sleeping alone."

But then I suppose that's good, as I'm reminded of what Senator Bob Dole once said: "Anything that keeps a politician humble is good for democracy."

Only eight years ago, I represented a small segment of Fayette County in this chamber. I know the dedication, the hard work, and sometimes thankless hours you members work to serve your districts in this commonwealth. I didn't always agree with the outcome of the vote tally on this floor. And I learned of unintended consequences. One of the earliest bills we passed, over my objection, was redistricting. My district was moved two counties to the north, preventing me from continuing to serve.

I imagine a few of you wish you could take that vote back now.

But that change led me to other pursuits.

Those pursuits, oddly enough, have returned me to this chamber tonight, to address this body on behalf of all Kentuckians. Clearly, what decisions we make will affect the lives of others in ways we may not immediately understand.

I appreciate your teamwork and your insight, and I look forward to continuing our work together... because this is where we stand:

The state of the commonwealth is as challenging as it has ever been in the modern age.

We are prepared for the challenge, but let's not mince words: this is a government with problems at its very core, and those problems have festered for decades.

From the organization of the budget... to the structure of the tax code... to the culture of state government itself... we will find a better way.

We didn't get into this spot overnight, and it's going to take time to get us out.

My plan is focused on improving economic opportunity throughout the commonwealth.

That will be accomplished first by reorganization. And second, by the overhauling of our budget priorities and policy.

First, reorganization.

We have begun the largest reorganization of Kentucky government in decades, and perhaps in the history of the state.

The analysis began months before the election, anticipating that if we won, we would be on a fast pace to get things done in the first weeks in office.

We have reduced the number of cabinets from 14 to 8, eliminating duplicate services, and imposing quantitative measurements of growth and quality of service.

We have brought in the best people our state has to offer to run these cabinets. Each is outstanding in their fields, and each has walked away from their regular jobs to contribute their talents to Kentucky.

This is only the beginning. As we continue to reorganize, we have to look at things at the nuts-and-bolts level.

Do we really need Economic Development offices within ten miles of one another?

Can't more than one of our 50 state parks be financially self-sufficient?

How does issuing a purchase order cost more than the thing we're buying?

As we drill down, this list is only going to get longer.

On January 6 we abolished the racing commission, and then reformed it new as the Kentucky Horse Racing Authority. That's for starters.

I am bringing into the Governor's Office an expert, known nationally for his ability to increase efficiency and productivity.

Tonight, I ask you for ratification of our first steps toward the most comprehensive reorganization in decades.

The call for change was precipitated by the budget crisis.

We have inherited a budget crisis not only between revenue and spending, but also in structure.

We have found a way to meet this year's shortfall of just over $300 million, and we're already planning and saving for the shortfall dictated by that structure into next year's budget.

These choices did not come without criticism. But they were necessary to ensure Kentucky's future.

Structural reorganization is one pillar of change. Overhauling our budget priorities and policy is the other.

Over the years, state government has moved in many directions without the knowledge, skills or funding to finish the job.

Government cannot do everything, so we need to first decide what government ought to be doing... then figure out what it's capable of doing... and then follow the jobs we choose to completion.

We have to decide what to fund, put off, or do without.

I believe we should select priorities that move us toward a goal we all agree on: creating new economic opportunity.

That means giving our new graduates a reason to stay here...

Attracting new industries, and keeping the ones we already have...

Balancing growth and industry with the protection of our natural resources...

Making Kentucky a place where children get an education for the 21st century workplace...

Ensuring accessible and affordable healthcare...

And fighting the scourge of illegal drugs.

This effort will begin by balancing our budget without raising taxes.

The budget we will present to you later this month will not be painless. But let me assure you, today's bitter pill will reduce tomorrow's pain.

Consider the problems we have to prioritize.

Economically, we have not kept up with the expansion of our neighboring states. Earnings per job in Kentucky are $3000 below the national average.

Kentucky's economy will always include agriculture, mining and manufacturing, but high-tech is where the next generation of jobs lies, including advanced agriculture, manufacturing, clean coal technology, biotech and other knowledge-based industries.

That's why I've embraced the forward-looking work of the Office of the New Economy and connectkentucky to expand Internet access, because if we want to compete in the new economy, we have to be a wired state.

I want Kentuckians to get their fair share of new high-tech jobs. We have nowhere to go but up, because Kentucky is 29th in high-tech employment, 41st in the average high-tech wage, 43rd in R&D, and 46th in venture capital investments.

We'll attract those jobs to Kentucky by making this a business-friendly state. That's why I will work with you members of the legislature to make life easier for women and men who have small businesses, and to pass my Kentucky Jobs and Wages initiative.

And for those serving in our National Guard, thank you for your sacrifice, and let me assure you: we are recruiting, and help is on the way.

In education, the improvement over the last few years has given us a firm foundation to build on.

And I want to commend you, as well as our teachers across the commonwealth who have made that possible.

The major educational challenge of today is illiteracy. 60 percent of the prison population, and 90 percent of those on death row, can't read.

We're going to move forward on the "Read To Achieve" initiative to ensure that every child in the state can read at grade level by the end of the third grade.

The challenge is acute in minority communities, particularly in African-American communities, where twice the percentage of fourth graders read at only the novice level, compared to non-minorities.

Let me stop at this point and introduce our First Lady, Glenna.

Our First Lady will be promoting "Read to Achieve," and she is passionate about it. She will be driving home the point that reading is the foundation of every bit of learning and success in life.

Glenna, thank you for joining Senator Kelly and Speaker Richards to take on this job.

In higher education, we have asked our universities, along with the rest of state government, to make some sacrifices in the short term. But, be assured I understand and strongly support the essential role of higher education.

We have one of the nation's leading transplant centers, and our colleges and universities are making research advances in biotechnology, nanotechnology and other disciplines. This is the kind of work that helps bring more high-tech jobs to the state–and introduces our young people to opportunities they might like to pursue.

And, as I have pledged, we are going to bring a federal research lab to Kentucky.

Healthcare is a part of opportunity, too. Because if you want to work here, you have to want to live here. And living anywhere demands access to top-flight healthcare.

But we have problems.

The cost of healthcare is growing out of control.

Medicaid is failing to meet its obligations, especially to seniors in long-term care.

We are sorely lacking in public education on healthy habits of living.

Compared to the rest of the country, we get less physical exercise, and have more diabetes, cancer, and heart disease.

We need health insurance reform for the individual market and for state employees.

We need to promote preventive medicine.

These issues are especially important to me–which is why we will modernize Medicaid to make it easier to access, and to empower people to take control of their own healthcare.

That's why we're going to educate Medicaid recipients about preventive care.

And that's why we're cultivating new competition in the insurance market, to bring new providers back to the state so we can have lower rates for Kentuckians.

We have begun work on a medical liability program to stop the flood of doctors heading out of the state. President Williams has made this issue a priority, and I am pleased that today, Senate Bill 1 was passed by the Senate's State and Local Government Committee.

I know the House shares our desire to improve Kentucky's health, and I ask for your leadership to help us move this forward.

And there's a drug problem in this state that's destroying our communities and our young people, whether it's methamphetamine made in somebody's garage or inappropriate prescriptions for Oxy-Contin.

Our Lt. Governor Steve Pence also serves as Cabinet Secretary of Justice–we're getting two jobs for the price of one out of him. Just last week, he met with Attorney General Stumbo so they can find ways to fight this problem.

Lt. Governor Pence will convene a working summit of leaders as the first step toward a comprehensive plan for education, prevention, treatment and rehabilitation.

We must move beyond just being tough on crime to being effective on crime, not only for the sake of those caught in the jaws of addiction but also for the taxpayer who foots the bill.

Our economy has changed over the years–but you wouldn't know that to look at the tax code. The basis for funding government has to reflect the nature of the state's economy.

That's why we need a tax modernization plan that does not increase the tax burden on Kentuckians.

Half-measures won't get it. If we change one tax this year, and change another a couple of years down the road, we're missing the point.

This is comprehensive change in the way we do business to reflect the new economy, and to attract the human capital we need.

It will ease our budget problems in the future by growing our economy–not growing the tax burden. And it will ensure fairness for our low-income citizens, who today bear one of the heavier tax burdens in any state.

I know that elections are this year, and the easy answer is to put it off.

But, I ask you to join me to accomplish this long-overdue goal.

Constitutionally, this work must begin in the House. I offer to work in a bipartisan, bicameral way and, at the earliest opportunity, to tackle this challenge. The longer we wait, the longer we withhold expanded opportunity for those at whose pleasure we serve.

In closing, let me thank both sides of the aisle for how you've received me. This means a great deal to me, and it will mean a great deal to the people of the commonwealth as we work through these challenges together.

The people we represent expect fiscal and personal integrity from us, and that's what we'll deliver.

We're going to work together, and we're scheduling one-on-one meetings between each legislator and me. I want to know what you're thinking, and what your constituents are thinking.

There isn't going to be money for every project.

There is going to be some doing without so we can pay, for what we agree together, is most vital.

The state of the commonwealth is challenging, but we are more than prepared for that challenge.

Let us pledge together for all Kentuckians to restore hope and opportunity.

Thank you, and God bless Kentucky.

Representative Adkins moved to dissolve the Joint Session. Agreed.

The Speaker resumed the Chair and called the House to order.

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 2:00 p.m., Wednesday, January 14, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 2:00 p.m., Wednesday, January 14, 2004, was adopted by voice vote.

WEDNESDAY, JANUARY 14, 2004

SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Father Charles Ellestad, Church of the Ascension, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Haydon, Ford, and Napier.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 13, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 269, by Representatives Moberly and J. Lee: AN ACT relating to child support.

HB 270, by Representatives Walton, Marcotte, Kerr, and Draud: AN ACT relating to the Support Education Excellence in Kentucky Program.

HB 271, by Representatives Geveden, Rasche, and Buckingham: AN ACT relating to tax returns.

HB 272, by Representative Lindsay: AN ACT relating to state government.

HB 273, by Representatives Weaver, Cornett, Miller, Hoffman, and R. Adams: AN ACT relating to a veterans' personal loan program.

HB 274, by Representatives Weaver, Cornett, Miller, and Hoffman: AN ACT relating to the lottery.

HB 275, by Representative Bather: AN ACT relating to parole.

HB 276, by Representative Lindsay: AN ACT relating to civil actions.

HB 277, by Representative Weaver: AN ACT relating to certification of contractors.

HJR 65, by Representatives Siler and Burch: A JOINT RESOLUTION urging the University of Kentucky and the University of Louisville to complete an analysis of the scientific research findings regarding new drugs and new avenues for the potential therapeutic treatment of addiction to drugs and food.

HCR 66, by Representative Adkins: A CONCURRENT RESOLUTION confirming the appointment of John S. Turner to the Council on Postsecondary Education.

HCR 67, by Representative Adkins: A RESOLUTION confirming the appointment of Kenneth W. Winters to the Council on Postsecondary Education.

HB 278, by Representative P. Clark: AN ACT relating to retirement.

HB 279, by Representative P. Clark: AN ACT relating to the Capital Construction and Equipment Purchase Contingency Account.

HB 280, by Representative P. Clark: AN ACT relating to establishment of a capital renewal account.

HCR 68, by Representative P. Clark: A CONCURRENT RESOLUTION directing the Legislative Research Commission to establish a Kentucky Retirement Systems Study Group to conduct a comprehensive analysis of the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System, and to make recommendations thereon.

HB 281, by Representatives McKee, A. Arnold, Crimm, Cherry, Brinkman, Thomas, Westrom, A. Smith, Rand, Draud, Baugh, Wilkey, Gray, Barrows, J. Adams, Belcher, Bruce, Hoffman, Denham, R. Adams, T. Turner, Pasley, J. Thompson, Dw. Butler, and Horlander: AN ACT relating to agricultural land use.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Appropriations and Revenue: **HB 268**

Health and Welfare: **HB 260, 261, 262, 267**

Judiciary: **HB 264, 265, 266**

State Government: **HB 263**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Judiciary: **HB 22, 24, 25, 27, 110, 118, 182, 189, 228**

Report of Committees

The Committee on Education reported **HB 152**, with Committee Amendment attached thereto, **HCR 23, HCR 24**, with Committee Substitute attached thereto, **HCR 31, HCR 32**, with Committee Substitute attached thereto, **HCR 33**, with Committee Title Amendment attached thereto, and **HCR 34**, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 152, AN ACT relating to the Education Professional Standards Board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.350 is amended to read as follows:

(1) After considering the recommendations of a screening committee, as provided in KRS 160.352, each board of education shall appoint a superintendent of schools whose term of office shall begin on July 1, following ***the individual's***[~~his~~] appointment. The appointment may be for a term of no more than four (4) years. In the event a vacancy occurs in the office of superintendent prior to the expiration of the term set by the board, the term shall expire on the date the vacancy occurs. Therefore, the board may appoint a superintendent for a new term as provided in this subsection, which shall begin on the date of the superintendent's appointment, except when the vacancy occurs after a school board election and before the newly elected members take office. When a vacancy occurs during this period, the position shall not be filled until the new members take office, but the board may appoint an acting superintendent to serve a term not to exceed six (6) months. This appointment may be renewed once for a period not to exceed three (3) months. If a vacancy occurs, a local board may also appoint an acting superintendent during the period the screening committee pursuant to KRS 160.352 conducts its business and prior to the actual appointment of the new superintendent. No superintendent shall resign ***during a***[~~his~~] term and accept a new term from the same board of education prior to the expiration date of ***the***[~~his~~] present term. In the case of a vacancy in the office for an unexpired term, the board of education shall make the appointment so that the term will end on June 30. The board shall set the salary of the superintendent to be paid in regular installments.

(2) ***An individual shall not assume the duties of superintendent in a district until he or she provides the board of education with a copy of a certificate for school superintendent issued by the Education Professional Standards Board or its legal predecessor. A superintendent***[~~Before any superintendent assumes his duties, he shall present to the board of education that appointed him a statement signed by the chief state school officer that the superintendent has been duly issued a certificate of administration and supervision issued in accordance with the provisions of law and which qualifies him to hold the position to which he has been appointed, and he~~] shall hold ***a valid***[~~such~~] certificate throughout the period of[~~ his~~] employment. A superintendent candidate who is to begin ***the***[~~his~~] duties ***of superintendent*** after June 30, 1994, shall successfully complete the training program and assessment center process within one (1) year of assuming ***the***[~~his~~] duties ***of***[~~as~~] superintendent. A superintendent shall not serve as director or officer of a bank, trust company, or savings or loan association ***that***[~~which~~] has ***the***[~~his~~] school ***district's***[~~district~~] funds on deposit. Following appointment, the superintendent shall establish residency in Kentucky.

(3) A superintendent of schools may be removed for cause by a vote of four-fifths (4/5) of the membership of a board of education and upon approval by the ***commissioner of education***[~~chief state school officer~~]. However, if the dismissal of the superintendent has been recommended by a highly skilled certified educator pursuant to KRS 158.6455 and the action is approved by the ***commissioner of education***[~~chief state school officer~~], the board shall terminate the superintendent's contract. Written notice setting out the charges for removal shall be spread on the minutes of the board and given to the superintendent. The board shall seek approval by the ***commissioner of education***[~~chief state school officer~~] for removing the superintendent. The ***commissioner of education***[~~chief state school officer~~] shall investigate the accuracy of the charges made, evaluate the superintendent's overall performance during ***the superintendent's***[~~his~~] appointment, and consider the educational performance of the students in the district. Within thirty (30) days of notification, ***the commissioner of***

education[~~the~~] shall either approve or reject the board's request.

(4) After the completion of a superintendent's first contract or after four (4) years, whichever comes last, the board of education may, no later than June 30, extend the contract of the superintendent for one (1) additional year beyond the current term of employment.

Section 2. KRS 161.028 is amended to read as follows:

(1) The Education Professional Standards Board is recognized to be a public body corporate and politic and an agency and instrumentality of the Commonwealth, in the performance of essential governmental functions. The Education Professional Standards Board has the authority and responsibility to:

(a) Establish standards and requirements for obtaining and maintaining a teaching certificate;

(b) Set standards for, approve, and evaluate college, university, and school district programs for the preparation of teachers and other professional school personnel. Program standards shall reflect national standards and shall address, at a minimum, the following:

1. The alignment of programs with the state's core content for assessment as defined in KRS 158.6457;
2. Research-based classroom practices, including effective classroom management techniques;
3. Emphasis on subject matter competency of teacher education students;
4. Methodologies to meet diverse educational needs of all students;
5. The consistency and quality of classroom and field experiences, including early practicums and student teaching experiences;
6. The amount of college-wide or university-wide involvement and support during the preparation as well as the induction of new teachers;
7. The diversity of faculty;
8. The effectiveness of partnerships with local school districts; and
9. The performance of graduates on various measures as determined by the board.

(c) Conduct an annual review of diversity in teacher preparation programs;

(d) Provide assistance to universities and colleges in addressing diversity, which may include researching successful strategies and disseminating the information, encouraging the development of nontraditional avenues of recruitment and providing incentives, waiving administrative regulations when needed, and other assistance as deemed necessary;

(e) Discontinue approval of programs that do not meet standards or whose graduates do not perform according to criteria set by the board;

(f) Issue, renew, revoke, suspend, or refuse to issue or renew; impose probationary or supervisory conditions upon; issue a written reprimand or admonishment; or any combination of actions regarding any certificate;

(g) Develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by an employee certified by the Education Professional Standards Board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure the process does not revictimize the alleged victim or cause harm if an employee is falsely accused;

(h) Receive, along with investigators hired by the Education Professional Standards Board, training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedures in sex offense cases, and effective intervention with victims and offenders;

(i) Recommend to the Kentucky Board of Education the essential data elements relating to teacher preparation and certification, teacher supply and demand, teacher attrition, teacher diversity, and employment trends to be included in a state comprehensive data and information system and ***periodically*** report ***data***[the ~~recommendations~~] to the Interim Joint Committee on Education;

(j) Submit reports to the Governor and the Legislative Research Commission and inform the public on the status of teaching in Kentucky;

(k) Devise a credentialing system that provides alternative routes to gaining certification and greater flexibility in staffing local schools while maintaining standards for teacher competence;

(l) Develop a professional code of ethics;

(m) Set the qualifications and salary for the positions of executive director and deputy executive director to the board, notwithstanding the provisions of KRS 64.640;

(n) Recruit, select, employ and evaluate the executive director to the board;

(o) Approve employment procedures for the employment of policy level staff, subject to the provisions of KRS 12.050;

(p) Approve the biennial budget request;

(q) Charge reasonable fees for the issuance, reissuance, and renewal of certificates that are established by administrative regulation. The proceeds shall be used to meet a portion of the costs of the issuance, reissuance, and renewal of certificates, and the costs associated with disciplinary action against a certificate holder under KRS 161.120;

(r) Waive a requirement that may be established in an administrative regulation promulgated by the board. A request for a waiver shall be submitted to the board, in writing, by an applicant for certification, a postsecondary institution, or a superintendent of a local school district, with appropriate justification for the waiver. The board may approve the request if the person or institution seeking the waiver has demonstrated extraordinary circumstances justifying the waiver. Any waiver granted under this subsection shall be subject to revocation if the person or institution falsifies information or subsequently fails to meet the intent of the waiver;

(s) Promote the development of one (1) or more innovative, nontraditional or alternative administrator or teacher preparation programs through public or private colleges or universities, private contractors, the Department of Education, or the Kentucky Commonwealth Virtual University and waive administrative regulations if needed in order to implement the program;

(t) Grant approval, if appropriate, of a university's request for an alternative program that enrolls students in a postbaccalaureate teacher preparation program concurrently with employment as a teacher in a local school district. A student in the alternative program shall be granted a temporary provisional certificate and shall be a candidate in the Kentucky Teacher Internship Program, notwithstanding provisions of KRS 161.030. The temporary certificate shall be valid for a maximum of ***one (1) year and may be renewed*** two (2) ***additional*** years, and shall be contingent upon the candidate's continued enrollment in the preparation program and compliance with all requirements established by the board. A professional certificate shall be issued upon the teacher candidate's successful completion of the program, the internship requirements, and all assessments required by the board;

(u) Grant approval, if appropriate, of a university's request for an alternative program that enrolls an administrator candidate in a postbaccalaureate administrator preparation program concurrently with employment as an assistant principal, principal, assistant superintendent, or superintendent in a local school district. An administrator candidate in the alternative program shall be granted a temporary provisional certificate and shall be a candidate in the Kentucky Principal Internship Program, notwithstanding provisions of KRS 161.030, or the Superintendent's Assessment process, notwithstanding provisions of KRS 156.111, as appropriate. The temporary certificate shall be valid for a maximum of two (2) years, and shall be contingent upon the candidate's continued enrollment in the preparation program and compliance with all requirements established by the board. A professional certificate shall be issued upon the candidate's successful completion of the program, internship requirements, and assessments as required by the board;

(v) Employ consultants as needed;

(w) Enter into contracts. Disbursements to professional educators who receive less than one thousand dollars ($1,000) in compensation per fiscal year from the board for serving on an assessment validation panel or as a test scorer or proctor shall not be subject to KRS 45A.690 to 45A.725;

(x) Sponsor studies, conduct research, conduct conferences, and publish information as appropriate; and

(y) Issue orders as necessary in any administrative action before the board.

(2) (a) The board shall be composed of seventeen (17) members. The ***commissioner of education***[~~chief state school officer~~] and the president of the Council on Postsecondary Education, or their designees, shall serve as ex officio voting members. The Governor shall make the following fifteen (15) appointments:

1. Nine (9) members who shall be teachers representative of elementary, middle or junior high, secondary, special education, and secondary vocational classrooms;
2. Two (2) members who shall be school administrators, one (1) of whom shall be a school principal;
3. One (1) member representative of local boards of education; and
4. Three (3) members representative of postsecondary institutions, two (2) of whom shall be deans of colleges of education at public universities and one (1) of whom shall be the chief academic officer of an independent not-for-profit college or university.

(b) The members appointed by the Governor after June 21, 2001, shall be confirmed by the Senate and the House of Representatives under KRS 11.160. If the General Assembly is not in session at the time of the appointment, persons appointed shall serve prior to confirmation, but the Governor shall seek the consent of the General Assembly at the next regular session or at an intervening extraordinary session if the matter is included in the call of the General Assembly.

(c) A vacancy on the board shall be filled in the same manner as the original appointment within sixty (60) days after it occurs. A member shall continue to serve until his successor is named. Any member who, through change of employment status or residence, or for other reasons, no longer meets the criteria for the position to which he was appointed shall no longer be eligible to serve in that position.

(d) Members of the board shall serve without compensation but shall be permitted to attend board meetings and perform other board business without loss of income or other benefits.

(e) A state agency or any political subdivision of the state, including a school district, required to hire a substitute for a member of the board who is absent from ***the member's place of***~~[his]~~ employment while performing board business shall be reimbursed by the board for the actual amount of any costs incurred.

(f) A chairman shall be elected by and from the membership. A member shall be eligible to serve no more than three (3) one (1) year terms in succession as chairman. The executive director shall keep records of proceedings. Regular meetings shall be held at least semiannually on call of the chairman.

(g) To carry out the functions relating to its duties and responsibilities, the board is empowered to receive donations and grants of funds; to appoint consultants as needed; and to sponsor studies, conduct conferences, and publish information.

Section 3. KRS 161.048 is amended to read as follows:

(1) The General Assembly hereby finds that:

(a) 1. There are persons who have distinguished themselves through a variety of work and educational experiences that could enrich teaching in Kentucky schools;

2. There are distinguished scholars who wish to become teachers in Kentucky's public schools, but who did not pursue a teacher preparation program;

3. There are persons who need to be recruited to teach in Kentucky schools to meet the diverse cultural and educational needs of students; and

4. There should be alternative procedures to the traditional teacher preparation programs that qualify persons as teachers.

(b) There are hereby established alternative certification program options as described in subsections (2) through (6) of this section.

(c) It is the intent of the General Assembly that the Educational Professional Standards Board inform scholars, persons with exceptional work experience, and persons with diverse backgrounds who have potential as teachers of these options and assist local boards of education in implementing these options and recruitment of individuals who can enhance the education system in Kentucky.

(d) The Education Professional Standards Board shall promulgate administrative regulations establishing standards and procedures for the alternative certification options described in this section.

(2) Option 1: Certification of a person with exceptional work experience. An individual who has exceptional work experience and has been offered employment~~[at the secondary level]~~ in a local school district shall receive a one (1) year provisional teaching certificate with approval by the Education Professional Standards Board of a joint application by the individual and the employing school district under the following conditions:

(a) The application contains documentation of all education and work experience;

(b) The candidate has documented ten (10) years of exceptional work experience in the area in which certification is being sought;

(c) The candidate possesses***:***

1. ***a.*** ***A minimum of*** a bachelor's degree, with a ***cumulative*** grade point average of two and five-tenths (2.5) on a four (4) point scale ***or a grade point average of three (3.0) on a four (4) point scale on the last sixty (60) hours of credit completed, including undergraduate and graduate coursework*** from a nationally or regionally accredited postsecondary institution; ***or***

b. ***A master's degree with a cumulative grade point average of two and five-tenths (2.5) on a four (4) point scale or a grade point average of three (3.0) on a four (4) point scale on the last sixty (60) hours of credit completed, including undergraduate and graduate coursework from a nationally or regionally accredited postsecondary institution;*** and

2. ***An undergraduate academic major or a passing score on the academic content assessment designated by the Education Professional Standards Board.***

(d) The candidate shall participate in the teacher internship program under subsections (5), (6), (7), and (8) of KRS 161.030. After successful completion of the internship, the candidate shall receive a regular ***professional***~~[provisional]~~ certificate~~[.~~

~~An individual employed under this alternative shall be certified for one (1) year only, and may be approved for subsequent one (1) year renewals upon request of the local board of education and approval of the Education Professional Standards Board. A teacher who successfully completes three (3) contract years under the provisions of this section shall be awarded a regular provisional certificate,]~~ and ***shall be*** subject to certificate renewal requirements the same as any other teacher with a regular ***professional***~~[provisional]~~ certificate.

(3) Option 2: Certification through a local district training program. A local district or group of districts may seek approval for a training program. The state-approved local district training program is an alternative to the college teacher preparation

program as a means of acquiring teacher certification for a teacher at any grade level. The training program may be offered for all teaching certificates approved by Education Professional Standards Board, including interdisciplinary early childhood education, except for specific certificates for teachers of exceptional children. To participate in a state-approved local district alternative training program, the candidate shall:

(a) Possess a bachelor's degree with a grade point average of two and five tenths (2.5) on a four (4) point scale or, upon approval by the Education Professional Standards Board, at least a grade point average of two (2) on a four (4) point scale if the candidate has exceptional life experience related to teaching and has completed the bachelor's degree at least five (5) years prior to submitting an application to the program.

(b) Pass written tests designated by the Education Professional Standards Board for content knowledge in the specific teaching field of the applicant with minimum scores in each test as set by the Education Professional Standards Board. To be eligible to take a subject field test, the applicant shall have completed a thirty (30) hour major in the ***academic content area***[~~subject field~~] or five (5) years of experience in the ***academic content area***[~~subject field~~] as approved by the Education Professional Standards Board.

(c) Have been offered employment in a school district which has a training program approved by the Education Professional Standards Board.

(d) Upon meeting the participation requirements as established in this subsection, the candidate shall be issued a one (1) year provisional certificate by the Education Professional Standards Board. The regular provisional certificate shall be issued upon satisfactory completion of the program and the teacher testing internship program pursuant to KRS 161.030.

(e) The Education Professional Standards Board may reject the application of any candidate who is judged as not meeting academic requirements comparable to those for students enrolled in Kentucky teacher preparation programs.

(4) Option 3: Certification of a professional from a postsecondary institution: A candidate who possesses the following qualifications may receive alternative certification for teaching at ***any***[~~the secondary~~] level:

(a) A master's degree or doctoral degree in the academic ***content***[~~subject~~] area for which certification is sought;

(b) A minimum of five (5) years of full-time teaching experience, or its equivalent, in the academic ***content***[~~subject~~] area for which certification is sought in a regionally or nationally accredited institution of higher education; and

(c) Successful completion of the teacher internship requirement imposed under KRS 161.030.

(5) Option 4: Certification of an adjunct instructor. A person who has expertise in areas such as art, music, foreign language, drama, science, and other specialty areas may be employed as an adjunct instructor in a part-time position by a local board of education under KRS 161.046. ***An individual certified as an adjunct instructor shall not be deemed "highly qualified" under the provisions of the federal No Child Left Behind Act of 2001, 20 U.S.C. 6301 et seq.***

(6) Option 5: Certification of a veteran of the Armed Forces. The Education Professional Standards Board shall issue a statement of eligibility, valid for five (5) years, to a veteran for teaching at the elementary, secondary, and secondary vocational education levels with the following qualifications:

(a) Discharged or released from active duty under honorable conditions after six (6) or more years of continuous active duty immediately before the discharge or release;

(b) At least a bachelor's degree in the ***content***[~~subject matter~~] area or closely related area for which certification is sought, issued by a regionally or nationally accredited institution of higher education;

(c) A grade point average of two and five-tenths (2.5) on a four (4) point scale for a bachelor's degree or an advanced degree; and

(d) A passing score on the written exit assessment examination designated by the Education Professional Standards Board for content knowledge.

Upon an offer of employment by a school district, the eligible veteran shall receive a one (1) year provisional teaching certificate with approval by the Education Professional Standards Board of a joint application by the veteran and the employing school district. During this year, the veteran shall participate in the teacher internship program under subsections (5), (6), (7), and (8) of KRS 161.030. Upon successful completion of the internship program, the veteran shall receive a regular professional certificate.

(7) A teacher certified under subsections (2) to (6) of this section shall be placed on the local district salary schedule for the rank corresponding to the degree held by the teacher.

(8) Veterans who were discharged or released from active duty under honorable conditions after six (6) or more years of continuous active duty immediately before the discharge or release, and who have at least four (4) years of occupational experience in the area in which they seek certification as a vocational industrial education teacher, shall apply for certification under and meet the requirements of the administrative regulations promulgated by the Education Professional Standards Board.

(9) Subsections (1) to (3) of this section notwithstanding, a candidate who possesses the following qualifications may receive certification for teaching programs for exceptional students:

(a) An out-of-state license to teach exceptional students;

(b) A bachelor's or master's degree in the certification area or closely related area for which certification is sought; and

(c) Successful completion of the teacher internship requirement required under KRS 161.030.

Section 4. KRS 161.1221 is amended to read as follows:

(1) ~~[By January 15, 2001,]~~The Education Professional Standards Board shall define "out-of-field" teaching and inform all local school districts of the definition.~~[The board shall review its policies relating to emergency certificates as it develops a definition and consider if these policies contribute to the problem of out of field teaching.]~~

(2) By October 15 ***of each year***~~[, 2001]~~, the Education Professional Standards Board shall identify every teacher assigned classes out-of-field in the ***current***~~[2001-2002]~~ school year and shall inform the Kentucky Department of Education.

(3) The Kentucky Department of Education shall provide to each school district a summary of the teachers identified as teaching out-of-field and give the district opportunity to correct the situation during the year. No teacher shall be reduced in salary due to being involuntarily moved out-of-field or being hired into a position out of his or her field. Emergency certification shall not be a valid reason for reducing any certified teacher's salary.

The Committee Amendment No. 1 to **HB 152** is as follows:

HB 152, On page 10, line 17, by deleting "***master's***" and inserting "***graduate***" in lieu thereof; and

On page 10, line 23, by deleting "***undergraduate***".

HCR 23, A CONCURRENT RESOLUTION confirming the appointment of Dan H. Branham to the Education Professional Standards Board.

WHEREAS, KRS 161.028 requires the Governor to appoint 15 citizen members to the Education Professional Standards Board, subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, pursuant to KRS 161.028, the Governor has appointed Dan H. Branham to the Education Professional Standards Board representing deans of the college of education at public universities for a term expiring June 7, 2004; and

WHEREAS, the House of Representatives and the Senate find that Dan H. Branham meets the requirements of KRS 161.028 for service on the Education Professional Standards Board;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate, as required by KRS 161.028, hereby confirm the appointment of Dan H. Branham to the Education Professional Standards Board for a term expiring June 7, 2004.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution, and written confirmation of its adoption, to Dr. Dan H. Branham, 302 Burchett Boulevard, Morehead, Kentucky 40351 and to the Governor, State Capitol, Room 100, Frankfort, Kentucky 40601.

HCR 24, A CONCURRENT RESOLUTION confirming the appointment of Wilson L. Stone to the Education Professional Standards Board.

WHEREAS, KRS 161.028 requires the Governor to appoint 15 citizen members to the Education Professional Standards Board, subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, pursuant to KRS 161.028, the Governor has appointed Wilson L. Stone to the Education Professional Standards Board representing local boards of education for a term expiring September 18, 2006; and

WHEREAS, the House of Representatives and the Senate find that Wilson L. Stone meets the requirements of KRS 161.028 for service on the Education Professional Standards Board;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives and the Senate, as required by KRS 161.028, hereby confirm the appointment of Wilson L. Stone to the Education Professional Standards Board for a term expiring September 18, 2006.

Section 2. The Clerk of the House of Representatives shall forward a copy of this resolution, and written confirmation of its adoption, to Mr. Wilson L. Stone, 1482 Jefferson School Road, Scottsville, Kentucky 42164 and to the Governor, State Capitol, Room 100, Frankfort, Kentucky 40601.

The Committee Substitute to **HCR 24** is as follows:

HCR 24, A CONCURRENT RESOLUTION confirming the appointment of Wilson L. Stone to the Education Professional Standards Board.

WHEREAS, KRS 161.028 requires the Governor to appoint 15 citizen members to the Education Professional Standards Board, subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, pursuant to KRS 161.028, the Governor has appointed Wilson L. Stone to the Education Professional Standards Board representing local boards of education for a term expiring September 18, 2006; and

WHEREAS, the House of Representatives and the Senate find that Wilson L. Stone meets the requirements of KRS 161.028 for service on the Education Professional Standards Board;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives and the Senate, as required by KRS 161.028, hereby confirm the appointment of Wilson L. Stone to the Education Professional Standards Board for a term expiring September 18, 2006.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution, and written confirmation of its adoption, to Mr. Wilson L. Stone, 1481 Jefferson School Road, Scottsville, Kentucky 42164 and to the Governor, State Capitol, Room 100, Frankfort, Kentucky 40601.

HCR 31, A CONCURRENT RESOLUTION confirming the appointment of Linda L. Livers to the Education Professional Standards Board.

WHEREAS, KRS 161.028 requires the Governor to appoint 15 citizen members to the Education Professional Standards Board, subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, pursuant to KRS 161.028, the Governor has appointed Linda L. Livers to the Education Professional Standards Board representing elementary teachers to fill a vacancy, created by a resignation, for the remainder of the unexpired term ending September 18, 2006; and

WHEREAS, the House of Representatives and the Senate find that Linda L. Livers meets the requirements of KRS 161.028 for service on the Education Professional Standards Board;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate, as required by KRS 161.028, hereby confirm the appointment of Linda L. Livers to the Education Professional Standards Board to fill a vacancy, created by a resignation, for the remainder of the unexpired term ending September 18, 2006.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution, and written confirmation of its adoption, to Ms. Linda L. Livers, 313 Clearview Avenue, Bowling Green, Kentucky 42101, and to the Governor, State Capitol, Room 100, Frankfort, Kentucky 40601.

HCR 32, A CONCURRENT RESOLUTION confirming the reappointment of Thomas James Stull to the Education Professional Standards Board.

WHEREAS, KRS 161.028 requires the Governor to appoint 15 citizen members to the Education Professional Standards Board, subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, pursuant to KRS 161.028, the Governor has reappointed Thomas James Stull to the Education Professional Standards Board representing middle or secondary teachers for a term expiring September 18, 2007; and

WHEREAS, the House of Representatives and the Senate find that Thomas James Stull meets the requirements of KRS 161.028 for service on the Education Professional Standards Board;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate, as required by KRS 161.028, hereby confirm the reappointment of Thomas James Stull to the Education Professional Standards Board for a term expiring September 18, 2007.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution, and written confirmation of its adoption, to Mr. Thomas James Stull, 705 Meadow Wood Drive, #8, Crescent Springs, Kentucky 41017, and to the Governor, State Capitol, Room 100, Frankfort, Kentucky 40601.

The Committee Substitute to **HCR 32** is as follows:

HCR 32, A CONCURRENT RESOLUTION confirming the reappointment of Thomas James Stull to the Education Professional Standards Board.

WHEREAS, KRS 161.028 requires the Governor to appoint 15 citizen members to the Education Professional Standards Board, subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, pursuant to KRS 161.028, the Governor has reappointed Thomas James Stull to the Education Professional Standards Board representing middle or secondary teachers for a term expiring September 18, 2007; and

WHEREAS, the House of Representatives and the Senate find that Thomas James Stull meets the requirements of KRS 161.028 for service on the Education Professional Standards Board;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate, as required by KRS 161.028, hereby confirm the reappointment of Thomas James Stull to the Education Professional Standards Board for a term expiring September 18, 2007.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution, and written confirmation of its adoption, to Mr. Thomas James Stull, 839 Wesley Drive, Villa Hills, Kentucky 41017, and to the Governor, State Capitol, Room 100, Frankfort, Kentucky 40601.

HCR 33, A CONCURRENT RESOLUTION confirming the reappointment of Kristen Moe Livers to the Education Professional Standards Board.

WHEREAS, KRS 161.028 requires the Governor to appoint 15 citizen members to the Education Professional Standards Board, subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, pursuant to KRS 161.028, the Governor has reappointed Kristin Moe Gregory to the Education Professional Standards Board representing elementary teachers for a term expiring September 18, 2007; and

WHEREAS, the House of Representatives and the Senate find that Kristin Moe Gregory meets the requirements of KRS 161.028 for service on the Education Professional Standards Board;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate, as required by KRS 161.028, hereby confirm the reappointment of Kristin Moe Gregory to the Education Professional Standards Board for a term expiring September 18, 2007.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution, and written confirmation of its adoption, to Ms. Kristin Moe Gregory, 3625 Echo Valley Circle, LaGrange, Kentucky 40031, and to the Governor, State Capitol, Room 100, Frankfort, Kentucky 40601.

The Committee Amendment No. 1 Title to **HCR 33** is as follows:

HCR 33, Amend the title to read as follows:

"A CONCURRENT RESOLUTION confirming the reappointment of Kristin Moe Gregory to the Education Professional Standards Board."

HCR 34, A CONCURRENT RESOLUTION confirming the reappointment of Lydia Sweeney Coffey to the Education Professional Standards Board.

WHEREAS, KRS 161.028 requires the Governor to appoint 15 citizen members to the Education Professional Standards Board, subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, pursuant to KRS 161.028, the Governor has reappointed Lydia Sweeney Coffey to the Education Professional Standards Board representing elementary teachers for a term expiring September 18, 2007; and

WHEREAS, the House of Representatives and the Senate find that Lydia Sweeney Coffey meets the requirements of KRS 161.028 for service on the Education Professional Standards Board;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate, as required by KRS 161.028, hereby confirm the reappointment of Lydia Sweeney Coffey to the Education Professional Standards Board for a term expiring September 18, 2007.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution, and written confirmation of its adoption, to Ms. Lydia Sweeney Coffey, 619 Bartle Drive, Liberty, Kentucky 42539, and to the Governor, State Capitol, Room 100, Frankfort, Kentucky 40601.

The Committee on Banking and Insurance reported **HB 7,** with Committee Substitute attached thereto, **HB 29,** with Committee Substitute attached thereto, and **HB 139,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 7, AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 434.550 TO 434.730 IS CREATED TO READ AS FOLLOWS:

(1) No person that accepts credit cards or debit cards for the transaction of business shall print more than the last five (5) digits of the credit card or debit card account number or print the credit card or debit card expiration date on a credit card receipt or debit card receipt that is given to the purchaser.

(2) This section shall apply only to receipts that are electronically printed and shall not apply to transactions in which the sole means of recording the credit card number or debit card number is by handwriting or by an imprint or copy of the credit card or debit card.

(3) Any person that accepts credit cards or debit cards for the transaction of business shall take reasonable actions to ensure that the receipts which the person retains for business purposes do not come into the possession of unauthorized persons and are shredded, burned, or otherwise destroyed when no longer needed for business purposes.

(4) Where the person accepting credit or debit cards for business contracts with another for the processing of the credit and debit transactions, including with a bank or other financial institution, and the configuration of the hardware or software utilized in the processing is under the exclusive control of the other person, the responsibility for compliance with subsection (1) of this section shall shift to that other person.

SECTION 2. A NEW SECTION OF KRS 434.550 TO 434.730 IS CREATED TO READ AS FOLLOWS:

(1) No person shall use a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card with the intent to defraud the authorized user, the issuer of the authorized user's payment card, or a merchant.

(2) No person shall use a reencoder to place information encoded on the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different card with the intent to defraud the authorized user, the issuer of the authorized user's payment card, or a merchant.

Section 3. KRS 434.560 is amended to read as follows:

As used in KRS 434.550 to 434.730, unless the context otherwise requires:

(1) "Automated banking device" means any machine which when properly activated by a credit card, debit card or personal identification code will perform any of the following services:
    (a) Dispense money as a debit to the cardholder's savings or checking account; or
    (b) Print the cardholder's savings or checking account balances on a statement; or
    (c) Transfer funds between a cardholder's savings and checking account; or
    (d) Accept payments on a cardholder's loan; or
    (e) Dispense cash advances on an open end credit or a revolving charge agreement; or
    (f) Accept deposits to a customer's savings or checking account; or
    (g) Receive inquiries of verification of checks and dispense information which verifies that funds are available to cover said checks; or
    (h) Cause money to be transferred electronically from a cardholder's account to an account held by any business, firm, retail merchant, corporation, or any other organization*;*[~~.~~]

(2) "Cardholder" means the person or organization named on the face of a credit or debit card to whom or for whose benefit the credit or debit card is issued by an issuer*;*[~~.~~]

(3) "Credit card" means any instrument or device, whether known as a credit card, credit plate, credit number or by any other name, issued by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit*;*[~~.~~]

(4) "Debit card" means any instrument or device, known by any name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services and anything else of value, payment of which is made against funds previously deposited by cardholder*;*[~~.~~]

(5) "E.F.T. system" means an electronic funds transfer system whereby funds are transferred electronically from a cardholder's

account to any other account*;*[~~.~~]

(6) "Expired credit card" means a credit card which is no longer valid because the term shown on it has expired*;*[~~.~~]

(7) "Expired debit card" means a debit card which is no longer valid because the term shown on it has expired*;*[~~.~~]

(8) "Issuer" means the business organization or financial institution which issues a credit or debit card or its duly authorized agent*;*[~~.~~]

(9) ***"Merchant" means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of such owner or operator. "Merchant" also means a person who receives from an authorized user of a payment card, or someone the person believes to be an authorized user, a payment card or information from a payment card, or what the person believes to be a payment card or information from a payment card, as the instrument for obtaining, purchasing, or receiving goods, services, money, or anything else of value from the person;***

(10) "Participating party" means a business organization or financial institution, or any duly authorized agent of such business organization or financial institution, which is obligated by contract to acquire from a person, business organization or financial institution providing money, goods, services or anything else of value, a sales slip, sales draft or other instrument evidencing a credit or debit card transaction and from whom the issuer is obligated by contract to acquire or participate in such sales slip, sales draft or other instrument*;*[~~.~~]

(11) ***"Payment card" means a credit card, charge card, debit card, or any other card that is issued to an authorized card user and that allows the user to obtain, purchase, or receive goods, services, money, or anything else of value from a merchant;***

(12)[~~(10)~~] "Presentation or presents" as used herein shall be construed to define those actions taken by a cardholder or any person to introduce a credit or debit card into an automated banking device or merely displaying or showing a credit or debit card to the issuer, a person or organization providing money, goods, services, or anything else of value, or any other entity with intent to defraud*;*[~~.~~]

(13)[~~(11)~~] "Receives" or "receiving" means acquiring possession or control of a credit or debit card*;*[~~.~~]

(14)[~~(12)~~] ***"Reencoder" means an electronic device that places encoded information from the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different payment card;***

(15) "Revoked credit card" means a credit card which is no longer valid because permission to use it has been suspended or terminated by the issuer*;*[~~.~~]

(16)[~~(13)~~] "Revoked debit card" means a debit card which is no longer valid because permission to use it has been suspended or terminated by the issuer*; and*

(17) ***"Scanning device" means a scanner, reader, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card.***

Section 4. KRS 434.730 is amended to read as follows:

(1) A person who has violated KRS 434.590 shall be guilty of a Class A misdemeanor.

(2) A person who has violated KRS 434.600 shall be guilty of a Class D felony.

(3) A person who has violated the provisions of subsection (1) of Section 2 of this Act shall be guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.

(4) A person who has violated the provisions of subsection (2) of Section 2 of this Act shall be guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.

Section 5. Section 1 of this Act shall become effective and shall apply on January 1, 2005, to any cash register or other machine or device that electronically prints receipts on credit card or debit card transactions and which is placed into service on or after January 1, 2005, and on January 1, 2007, to any cash register or other machine or device that electronically prints receipts on credit card or debit card transactions and which is placed in service prior to January 1, 2005.

The Committee Substitute to **HB 7** is as follows:

HB 7, AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 434.550 TO 434.730 IS CREATED TO READ AS FOLLOWS:

(1) No person shall use a scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card with the intent to defraud the authorized user, the issuer of the authorized user's payment card, or a merchant.

(2) No person shall use a reencoder to place information encoded on the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different card with the intent to defraud the authorized user, the issuer of the

authorized user's payment card, or a merchant.

Section 2. KRS 434.560 is amended to read as follows:

As used in KRS 434.550 to 434.730, unless the context otherwise requires:

(1) "Automated banking device" means any machine which when properly activated by a credit card, debit card or personal identification code will perform any of the following services:

(a) Dispense money as a debit to the cardholder's savings or checking account; or

(b) Print the cardholder's savings or checking account balances on a statement; or

(c) Transfer funds between a cardholder's savings and checking account; or

(d) Accept payments on a cardholder's loan; or

(e) Dispense cash advances on an open end credit or a revolving charge agreement; or

(f) Accept deposits to a customer's savings or checking account; or

(g) Receive inquiries of verification of checks and dispense information which verifies that funds are available to cover said checks; or

(h) Cause money to be transferred electronically from a cardholder's account to an account held by any business, firm, retail merchant, corporation, or any other organization*;*[~~.~~]

(2) "Cardholder" means the person or organization named on the face of a credit or debit card to whom or for whose benefit the credit or debit card is issued by an issuer*;*[~~.~~]

(3) "Credit card" means any instrument or device, whether known as a credit card, credit plate, credit number or by any other name, issued by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit*;*[~~.~~]

(4) "Debit card" means any instrument or device, known by any name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services and anything else of value, payment of which is made against funds previously deposited by cardholder*;*[~~.~~]

(5) "E.F.T. system" means an electronic funds transfer system whereby funds are transferred electronically from a cardholder's account to any other account*;*[~~.~~]

(6) "Expired credit card" means a credit card which is no longer valid because the term shown on it has expired*;*[~~.~~]

(7) "Expired debit card" means a debit card which is no longer valid because the term shown on it has expired*;*[~~.~~]

(8) "Issuer" means the business organization or financial institution which issues a credit or debit card or its duly authorized agent*;*[~~.~~]

(9) *"Merchant" means an owner or operator of any retail mercantile establishment or any agent, employee, lessee, consignee, officer, director, franchisee, or independent contractor of such owner or operator. "Merchant" also means a person who receives from an authorized user of a payment card, or someone the person believes to be an authorized user, a payment card or information from a payment card, or what the person believes to be a payment card or information from a payment card, as the instrument for obtaining, purchasing, or receiving goods, services, money, or anything else of value from the person;*

(10) "Participating party" means a business organization or financial institution, or any duly authorized agent of such business organization or financial institution, which is obligated by contract to acquire from a person, business organization or financial institution providing money, goods, services or anything else of value, a sales slip, sales draft or other instrument evidencing a credit or debit card transaction and from whom the issuer is obligated by contract to acquire or participate in such sales slip, sales draft or other instrument*;*[~~.~~]

(11) "Payment card" means a credit card, charge card, debit card, or any other card that is issued to an authorized card user and that allows the user to obtain, purchase, or receive goods, services, money, or anything else of value from a merchant;

(12)[~~(10)~~] "Presentation or presents" as used herein shall be construed to define those actions taken by a cardholder or any person to introduce a credit or debit card into an automated banking device or merely displaying or showing a credit or debit card to the issuer, a person or organization providing money, goods, services, or anything else of value, or any other entity with intent to defraud*;*[~~.~~]

(13)[~~(11)~~] "Receives" or "receiving" means acquiring possession or control of a credit or debit card*;*[~~.~~]

(14)[~~(12)~~] *"Reencoder" means an electronic device that places encoded information from the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different payment card;*

(15) "Revoked credit card" means a credit card which is no longer valid because permission to use it has been suspended or terminated by the issuer*;*[~~.~~]

(16)[~~(13)~~] "Revoked debit card" means a debit card which is no longer valid because permission to use it has been suspended or terminated by the issuer*; and*

(17) "Scanning device" means a scanner, reader, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card.

Section 3. KRS 434.730 is amended to read as follows:

(1) A person who has violated KRS 434.590 shall be guilty of a Class A misdemeanor.

(2) A person who has violated KRS 434.600 shall be guilty of a Class D felony.

(3) A person who has violated the provisions of subsection (1) of Section 1 of this Act shall be guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.

(4) A person who has violated the provisions of subsection (2) of Section 1 of this Act shall be guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.

HB 29, AN ACT relating to personal motor vehicle insurance database.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 39 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise, "personal motor vehicle" means:

(a) A private passenger motor vehicle that is not used as a public or livery conveyance for passengers, nor rented to others; and

(b) Any other four-wheel motor vehicle that weighs six thousand (6000) pounds or less which is not used in the occupation, profession, or business of the insured.

(2) Beginning January 1, 2006, every insurance company that writes liability insurance on personal motor vehicles in Kentucky shall, between the first and fifteenth day of each month, send to the Department of Vehicle Regulation a list of the vehicle identification numbers (VIN) of each personal motor vehicle covered by liability insurance issued by the insurer as of the last day of the preceding month and the name of each personal motor vehicle insurance policyholder. The information shall be submitted either electronically or by paper copy at the option of the Department of Vehicle Regulation.

(3) In the absence of malice, fraud, or gross negligence, any insurer and any authorized employee of an insurer shall not be subject to civil liability for libel, slander, or any other relevant tort, and no civil cause of action of any nature shall arise against the insurer or authorized employee, for submission of the information required by subsection (2) of this section, including submission of inaccurate or incomplete information.

Section 2. KRS 186A.040 is amended to read as follows:

(1) The Department of Vehicle Regulation shall provide and receive information on the insurance status of vehicles registered in the Commonwealth of Kentucky *pursuant to Sections 1 and 4 of this Act*. The department shall provide appropriate insurance information to the Governor's Office for Technology for inclusion in the AVIS database *to assist in identifying uninsured motor vehicles*.

(2) *(a)* Upon notification to the Department of Vehicle Regulation from an insurance company of cancellation or nonrenewal of a policy pursuant to KRS 304.39-085, *or on and after January 1, 2006, if the vehicle identification number (VIN) of a personal motor vehicle does not appear in the database created by Section 1 of this Act for two (2) consecutive reporting months,* the department shall immediately make a determination as to the notification of the insured. Notification to the insured shall state that the insured's policy is no longer valid and that the insured shall have thirty (30) days to show proof of insurance to the county clerk. The department shall further inform the insured that if evidence of insurance is not received within thirty (30) days the department shall revoke the registration of the motor vehicle until:

1.[~~(a)~~] The person presents proof of insurance to the county clerk and pays the reinstatement fee required by KRS 186.180;

2.[~~(b)~~] The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that the failure to maintain motor vehicle insurance on the vehicle specified in the department's notification is the result of the inoperable condition of the motor vehicle;

3.[~~(c)~~] The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that the failure to maintain motor vehicle insurance on the vehicle specified in the department's notification is the result of the seasonal nature of the vehicle. The affidavit shall explain that when the vehicle is out of dormancy and when the seasonal use of the vehicle is resumed, the proper security will be obtained; or

4.[~~(d)~~] The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that he or she requires a registered motor vehicle in order to carry out his or her employment and that the motor vehicle that he or she drives during the course of his or her employment meets the security requirement of subtitle 39 of KRS Chapter 304. The person shall also declare in the affidavit that he or she will operate a motor vehicle only in the course of his or her employment. If a person has his or her motor vehicle registration revoked in accordance with this subsection three (3) times within any twelve (12) month period, the revocations shall constitute a violation of KRS 304.39-080. The department shall notify the county attorney to begin prosecution for violation of subtitle 39 of KRS Chapter 304.

(b)[~~(3)~~] The Department of Vehicle Regulation shall be responsible for notification to the appropriate county attorney that a motor vehicle is not properly insured, if the insured does not respond to notification set out by *paragraph (a) of this* subsection[~~(2) of this section~~]. The notice that the department gives to the county attorney in accordance with *paragraph (a) of this* subsection[~~(2) of this section~~] shall include a certified copy of the person's driving record which shall include:

1.[~~(a)~~] The notice that the department received from an insurance company that a person's motor vehicle insurance policy has been canceled or has not been renewed; and

2.[~~(b)~~] A dated notice that the department sent to the person requiring the person to present proof of insurance to the county clerk.

Upon notification by the department, a county attorney shall immediately begin prosecution of the person who had his or her motor vehicle registration revoked three (3) times within any twelve (12) month period in accordance with *paragraph (a) of this* subsection[~~(2) of this section~~].

(c)[~~(4)~~]The certified copies sent by the department described in *paragraph (b) of this* subsection[~~(3) of this section~~], shall be prima facie evidence of a violation of KRS 304.39-080.

(d)[~~(5)~~] If the insured provides proof of insurance to the clerk within the thirty (30) day notification period, the department shall ensure action is taken to denote a valid insurance policy is in force.

(3) (a) In developing the mechanism to electronically transfer information pursuant to Section 1 of this Act, the commissioner of the Department of Vehicle Regulation shall consult with the commissioner of the Department of Insurance and insurers of personal motor vehicles to adopt a standardized system of organizing, recording, and transferring the information so as to minimize insurer administrative expenses. The commissioner shall to the maximum extent possible utilize nationally recognized electronic data information systems such as those developed by the American National Standards Institute or the American Association of Motor Vehicle Administrators.

(b) Notwithstanding any other provision of law, information obtained by the department pursuant to Section 1 of this Act shall not be subject to the Kentucky Open Records Act, KRS 61.872 to 61.884, and shall not be disclosed, used, sold, accessed, utilized in any manner, or released by the department to any person, corporation, or state and local agency, except in response to a specific individual request for the information authorized pursuant to the federal Driver's Privacy Protection Act, 18 U.S.C. secs. 2721 et seq. The department shall institute measures to ensure that only authorized persons are permitted to access the information for the purposes specified by this section. Persons who knowingly release or disclose information from the database created by Section 1 of this Act for a purpose other than those described as authorized by this section or to a person not entitled to receive it shall be guilty of a Class A misdemeanor for each release or disclosure.

SECTION 3. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) On and after January 1, 2006, a county clerk shall not process an application for, nor issue, a:

(a) Kentucky title and registration or renewal of registration;

(b) Replacement plate, decal, or registration certificate;

(c) Duplicate registration;

(d) Transfer of registration; or

(e) Temporary tag;

for any personal motor vehicle as defined in subsection (1) of Section 1 of this Act if AVIS does not list the vehicle identification number of the personal motor vehicle as an insured vehicle, except as provided in subsection (2) of this section.

(2) If AVIS does not list the vehicle identification number of the personal motor vehicle as an insured vehicle, the county clerk may process the application if the applicant has an insurance card that indicates the required security is currently in full force on the personal motor vehicle if the card was issued no more than forty-five (45) days before the application is submitted to the county clerk.

(3) This section shall not apply to any transactions involving Kentucky motor vehicle dealers who are licensed as required by KRS 190.030.

Section 4. KRS 304.39-085 is amended to read as follows:

(1) Every authorized insurance company shall, within one (1) calendar week following the end of its accounting month, send to the Department of Vehicle Regulation a list of all persons insured by it whose policy was terminated by either cancellation or nonrenewal during such accounting month, except those persons whose nonrenewal was at the end of a policy with a term of six (6) months or longer and who failed to make a payment for the renewal of the policy. Such list

shall include a description of each vehicle insured under such terminating policy.

(2) It shall be lawful for an authorized insurance company to present the information required by subsection (1) of this section by compatible computer tape approved by the Department of Vehicle Regulation.

(3) On and after January 1, 2006, this section shall not apply to policies covering personal motor vehicles as defined in Section 1 of this Act.

Section 5. KRS 304.39-117 is amended to read as follows:

(1) Each insurer issuing an insurance contract which provides security covering a motor vehicle shall provide to the insured, in compliance with administrative regulations promulgated by the department, written proof in the form of an insurance card that the insured has in effect an insurance contract providing security in conformity with this subtitle.

(2) The owner shall keep the card in his motor vehicle as prima facie evidence***, except as provided in subsection (3) of this section,*** that the required security is currently in full force and effect, and shall show the card to a peace officer upon request.

(3) On and after January 1, 2006, as to personal motor vehicles as defined in Section 1 of this Act, the card and the database created by Section 1 of this Act shall be evidence to a peace officer who requests the card if the peace officer has access to the database through AVIS. If AVIS does not list the vehicle identification number of the personal motor vehicle as an insured vehicle, the peace officer may accept an insurance card as evidence that the required security is currently in full force and effect on the personal motor vehicle if the card was issued no more than forty-five (45) days before the date on which the peace officer requests the card.

Section 6. KRS 186.021 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, a county clerk shall not issue a replacement plate, decal, or registration certificate as provided in KRS 186.180, or a registration for renewal to any person who on January 1 of any year owned a motor vehicle on which state, county, city, urban-county government, school, or special taxing district ad valorem taxes are delinquent.

(2) Pursuant to KRS 134.810(4), the owner as defined in KRS 186.010(7)(a) and (c) on January 1 of any year shall be liable for taxes due on a motor vehicle. A person other than the owner of record who applies to a county clerk to transfer the registration of a motor vehicle may pay any delinquent ad valorem taxes due on the motor vehicle to facilitate the county clerk's transferring registration of the motor vehicle. The person applying shall not be required to pay delinquent ad valorem taxes due on any other motor vehicle owned by the owner of record from which he is purchasing his motor vehicle as a condition of registration.

(3) A county clerk shall not issue a replacement plate, decal, or registration certificate as provided in KRS 186.180, or a registration renewal for any motor vehicle that is not insured in compliance with KRS 304.39-080. Each applicant for registration renewal shall present proof of compliance to the county clerk in a manner prescribed in administrative regulations issued by the Department of Insurance. ***On and after January 1, 2006, if the motor vehicle is a personal motor vehicle as defined in Section 1 of this Act, proof of insurance shall be determined by the county clerk as provided in Section 3 of this Act.***

Section 7. KRS 186.180 is amended to read as follows:

(1) (a) If the owner loses his copy of a registration or transfer receipt, he may obtain a duplicate from the county clerk who issued the present owner's copy of the receipt by presenting the clerk proof of insurance on the motor vehicle in compliance with KRS 304.39-080, and by filing an affidavit, upon a form furnished by the cabinet. The owner shall pay to the clerk a fee of three dollars ($3), except proof of insurance shall not be required for duplicates applied for by motor vehicle dealers as defined in KRS 190.010.

(b) When the owner's copy of any registration or transfer receipt shows that the spaces provided thereon for noting and discharging security interests have been exhausted, the owner may apply to the county clerk who issued the receipt in order to obtain a duplicate thereof. The owner shall surrender his copy of the current receipt to the clerk and provide proof of insurance on the motor vehicle in compliance with KRS 304.39-080, before a duplicate may be issued. The owner shall pay the clerk a fee of three dollars ($3), except proof of insurance shall not be required for duplicates applied for by motor vehicle dealers as defined in KRS 190.010.

(c) Any security interest which has been discharged as shown by the records of the clerk or upon the owner's copy of the current receipt shall be omitted from the duplicate receipt to be issued by the clerk.

(2) If the owner loses a registration plate, he shall surrender his registration receipt to the county clerk from whom it was obtained and file a written statement as to the loss of the plate. Upon presenting the clerk proof of insurance on the motor vehicle in compliance with KRS 304.39-080, and upon the payment of the sum of three dollars ($3) for each plate and a fee of three dollars ($3) to the clerk for his services, the owner shall be issued another registration receipt and a plate or plates which shall bear a different number from that of the lost plate. The clerk shall retain the owner's statement and a copy of the owner's proof of insurance, and shall make a notation on the triplicate copy of the surrendered registration receipt stating the number of the registration receipt replacing it. The original copy of the surrendered receipt shall be forwarded to the cabinet. The cabinet shall forthwith cancel the registration corresponding to the number of the lost plate. The cancellation shall be reported by the cabinet to the commissioner of the Department of State Police. Any person

finding a lost registration plate shall deliver it to the Transportation Cabinet or to any county clerk for forwarding it to the cabinet.

(3) If the owner moves from one (1) county into another county of the Commonwealth, he may obtain a registration plate bearing the name of the county of residence. In order to obtain a new registration plate, the owner shall surrender his current registration receipt and current registration plate to the county clerk. Upon being provided with proof of insurance on the motor vehicle in compliance with KRS 304.39-080, the clerk shall provide the owner with a new registration receipt and plate bearing the county name. The surrendered receipt and plate shall be forwarded to the Transportation Cabinet. The fee for this registration shall be five dollars ($5) of which the clerk shall be entitled to three dollars ($3) and the cabinet shall be entitled to two dollars ($2).

(4) If the owner's registration is revoked as a result of the provisions set forth in KRS 186A.040, the owner may have his registration reinstated by the county clerk who issued the present owner's copy of the receipt by presenting the clerk proof of:

(a) Insurance on the motor vehicle in compliance with KRS 304.39-080 and by filing an affidavit upon a form furnished by the cabinet; or

(b) A valid compliance or exemption certificate in compliance with KRS 224.20-720 or issued under the authority of an air pollution control district under KRS 224.20-760.

(5) The owner of a motor vehicle that has the vehicle's registration revoked under KRS 186.290 shall pay to the clerk a fee of twenty dollars ($20), which shall be equally divided between the county clerk and the cabinet.

(6) On and after January 1, 2006, if the motor vehicle is a personal motor vehicle as defined in Section 1 of this Act, proof of insurance required under this section shall be determined by the county clerk as provided in Section 3 of this Act.

Section 8. KRS 186.190 is amended to read as follows:

(1) When a motor vehicle that has been previously registered changes ownership, the registration plate shall remain upon the motor vehicle as a part of it until the expiration of the registration year.

(2) A person shall not purchase, sell, or trade any motor vehicle without delivering to the county clerk of the county in which the sale or trade is made the title, and a notarized affidavit if required and available under KRS 138.450 attesting to the total and actual consideration paid or to be paid for the motor vehicle. Any unexpired registration shall remain valid upon transfer of the vehicle to the new owner. Except for transactions handled by a motor vehicle dealer licensed pursuant to KRS Chapter 190, the person who is purchasing the vehicle shall present proof of insurance in compliance with KRS 304.39-080 to the county clerk before the clerk transfers the registration on the vehicle. Proof of insurance shall be in the manner prescribed in administrative regulations promulgated by the Department of Insurance pursuant to KRS Chapter 13A. ***On and after January 1, 2006, if the motor vehicle is a personal motor vehicle as defined in Section 1 of this Act, proof of insurance shall be determined by the county clerk as provided in Section 3 of this Act.***

(3) Upon delivery of the title, and a notarized affidavit if required and available under KRS 138.450 attesting to the total and actual consideration paid or to be paid for the motor vehicle to the county clerk of the county in which the sale or trade was made, the seller shall pay to the county clerk a transfer fee of one dollar ($1), which shall be remitted to the Transportation Cabinet. If an affidavit is required, and available, the signatures on the affidavit shall be individually notarized before the county clerk shall issue to the purchaser a transfer of registration bearing the same data and information as contained on the original registration receipt, except the change in name and address. The seller shall pay to the county clerk a fee of three dollars ($3) for his services.

(4) When a county clerk issues to a purchaser a transfer of registration in a county other than the one (1) in which the motor vehicle was originally registered, the clerk shall immediately forward one (1) copy of the transfer of registration to the clerk of the county of original registration.

(5) If the owner junks or otherwise renders a motor vehicle unfit for future use, he shall deliver the registration plate and registration receipt to the county clerk of the county in which the motor vehicle is junked. The county clerk shall return the plate and motor vehicle registration receipt to the Transportation Cabinet. The owner shall pay to the county clerk one dollar ($1) for his services.

(6) A licensed motor vehicle dealer shall not be required to pay the transfer fee provided by this section, but shall be required to pay the county clerk's fee provided by this section.

(7) The motor vehicle registration receipt issued by the clerk under this section shall contain information required by the Department of Vehicle Regulation.

Section 9. KRS 186A.100 is amended to read as follows:

(1) A motor vehicle dealer licensed under KRS 186.070 who sells a vehicle for use upon the highways of this state shall, unless the vehicle is bearing a license plate issued therefor in the name of the purchaser at the time it is delivered to the purchaser, equip the vehicle with a temporary tag executed in the manner prescribed below, which shall be valid for thirty (30) days from the date the vehicle is delivered to the purchaser. The cost of the tag shall be two dollars ($2), of which the clerk shall retain one dollar ($1). A motor vehicle dealer licensed under KRS 186.070 shall apply to the county clerk of the county in which the dealer maintains his principal place of business for issuance of temporary tags. Application shall be made for such tags on forms supplied to the county clerk by the Transportation Cabinet.

(2) The county clerk of any county who receives a proper application for issuance of temporary tags shall record the number of each tag issued upon the application of the dealer for such tags, or if a group of consecutively numbered temporary tags are issued to a dealer in connection with a single application, record the beginning and ending numbers of the group on the application.

(3) The clerk shall retain, for a period of two (2) years, one (1) copy of the dealer's temporary tag application, and ensure that it reflects the numbers appearing on the tags issued with respect to such application.

(4) If the owner of a motor vehicle submits to the county clerk a properly completed application for Kentucky certificate of title and registration pursuant to KRS 186A.120, any motor vehicle required to be registered and titled in Kentucky, that is not currently registered and titled in Kentucky, may be equipped with a temporary tag, which shall be valid for thirty (30) days from the date of issuance, issued by the county clerk for the purpose of operating the vehicle in Kentucky while assembling the necessary documents in order to title and register the vehicle in Kentucky. The Transportation Cabinet may establish administrative regulations governing this section.

(5) The county clerk may issue a temporary tag to the owner of a motor vehicle that is currently registered and titled in Kentucky. A temporary tag authorized by this subsection shall be used for emergency or unusual purposes as determined by the clerk for the purpose of maintaining the owner's current registration. A temporary tag authorized by this subsection may only be issued by the county clerk and shall be valid for a period of between twenty-four (24) hours and seven (7) days, as determined is necessary by the clerk. A county clerk shall not issue a temporary tag authorized by this subsection unless the owner of the motor vehicle applying for the tag presents proof of motor vehicle insurance pursuant to KRS 304.39-080. *On and after January 1, 2006, if the motor vehicle is a personal motor vehicle as defined in Section 1 of this Act, proof of insurance shall be determined by the county clerk as provided in Section 3 of this Act.* A temporary tag issued pursuant to this subsection shall not be reissued by the county clerk for the same owner and same motor vehicle within one (1) year of issuance of a temporary tag.

The Committee Substitute to **HB 29** is as follows:

HB 29, AN ACT relating to personal motor vehicle insurance database.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 39 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise, "personal motor vehicle" means:

(a) A private passenger motor vehicle that is not used as a public or livery conveyance for passengers, nor rented to others; and

(b) Any other four-wheel motor vehicle that weighs six thousand (6000) pounds or less which is not used in the occupation, profession, or business of the insured.

(2) Beginning January 1, 2006, every insurance company that writes liability insurance on personal motor vehicles in Kentucky shall, between the first and fifteenth day of each month, send to the Department of Vehicle Regulation a list of the vehicle identification numbers (VIN) of each personal motor vehicle covered by liability insurance issued by the insurer as of the last day of the preceding month and the name of each personal motor vehicle insurance policyholder. The information shall be submitted either electronically or by paper copy at the option of the Department of Vehicle Regulation.

(3) In the absence of malice, fraud, or gross negligence, any insurer and any authorized employee of an insurer shall not be subject to civil liability for libel, slander, or any other relevant tort, and no civil cause of action of any nature shall arise against the insurer or authorized employee, for submission of the information required by subsection (2) of this section, including submission of inaccurate or incomplete information.

Section 2. KRS 186A.040 is amended to read as follows:

(1) The Department of Vehicle Regulation shall provide and receive information on the insurance status of vehicles registered in the Commonwealth of Kentucky *pursuant to Sections 1 and 4 of this Act*. The department shall provide appropriate insurance information to the Governor's Office for Technology for inclusion in the AVIS database *to assist in identifying uninsured motor vehicles*.

(2) *(a)* Upon notification to the Department of Vehicle Regulation from an insurance company of cancellation or nonrenewal of a policy pursuant to KRS 304.39-085, *or on and after January 1, 2006, if the vehicle identification number (VIN) of a personal motor vehicle does not appear in the database created by Section 1 of this Act for two (2) consecutive reporting months,* the department shall immediately make a determination as to the notification of the insured. Notification to the insured shall state that the insured's policy is no longer valid and that the insured shall have thirty (30) days to show proof of insurance to the county clerk. The department shall further inform the insured that if evidence of insurance is not received within thirty (30) days the department shall revoke the registration of the motor vehicle until:

1.[~~(a)~~] The person presents proof of insurance to the county clerk and pays the reinstatement fee required by KRS

186.180;

2.[~~(b)~~] The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that the failure to maintain motor vehicle insurance on the vehicle specified in the department's notification is the result of the inoperable condition of the motor vehicle;

3.[~~(c)~~] The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that the failure to maintain motor vehicle insurance on the vehicle specified in the department's notification is the result of the seasonal nature of the vehicle. The affidavit shall explain that when the vehicle is out of dormancy and when the seasonal use of the vehicle is resumed, the proper security will be obtained; or

4.[~~(d)~~] The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that he or she requires a registered motor vehicle in order to carry out his or her employment and that the motor vehicle that he or she drives during the course of his or her employment meets the security requirement of subtitle 39 of KRS Chapter 304. The person shall also declare in the affidavit that he or she will operate a motor vehicle only in the course of his or her employment. If a person has his or her motor vehicle registration revoked in accordance with this subsection three (3) times within any twelve (12) month period, the revocations shall constitute a violation of KRS 304.39-080. The department shall notify the county attorney to begin prosecution for violation of subtitle 39 of KRS Chapter 304.

(b)[~~(3)~~] The Department of Vehicle Regulation shall be responsible for notification to the appropriate county attorney that a motor vehicle is not properly insured, if the insured does not respond to notification set out by *paragraph (a) of this* subsection[~~ (2) of this section~~]. The notice that the department gives to the county attorney in accordance with *paragraph (a) of this* subsection[~~ (2) of this section~~] shall include a certified copy of the person's driving record which shall include:

1.[~~(a)~~] The notice that the department received from an insurance company that a person's motor vehicle insurance policy has been canceled or has not been renewed; and

2.[~~(b)~~] A dated notice that the department sent to the person requiring the person to present proof of insurance to the county clerk.

Upon notification by the department, a county attorney shall immediately begin prosecution of the person who had his or her motor vehicle registration revoked three (3) times within any twelve (12) month period in accordance with *paragraph (a) of this* subsection[~~ (2) of this section~~].

(c)[~~(4)~~]The certified copies sent by the department described in *paragraph (b) of this* subsection[~~ (3) of this section~~], shall be prima facie evidence of a violation of KRS 304.39-080.

(d)[~~(5)~~] If the insured provides proof of insurance to the clerk within the thirty (30) day notification period, the department shall ensure action is taken to denote a valid insurance policy is in force.

(3) (a) In developing the mechanism to electronically transfer information pursuant to Section 1 of this Act, the commissioner of the Department of Vehicle Regulation shall consult with the commissioner of the Department of Insurance and insurers of personal motor vehicles to adopt a standardized system of organizing, recording, and transferring the information so as to minimize insurer administrative expenses. The commissioner shall to the maximum extent possible utilize nationally recognized electronic data information systems such as those developed by the American National Standards Institute or the American Association of Motor Vehicle Administrators.

(b) Notwithstanding any other provision of law, information obtained by the department pursuant to Section 1 of this Act shall not be subject to the Kentucky Open Records Act, KRS 61.872 to 61.884, and shall not be disclosed, used, sold, accessed, utilized in any manner, or released by the department to any person, corporation, or state and local agency, except in response to a specific individual request for the information authorized pursuant to the federal Driver's Privacy Protection Act, 18 U.S.C. secs. 2721 et seq. The department shall institute measures to ensure that only authorized persons are permitted to access the information for the purposes specified by this section. Persons who knowingly release or disclose information from the database created by Section 1 of this Act for a purpose other than those described as authorized by this section or to a person not entitled to receive it shall be guilty of a Class A misdemeanor for each release or disclosure.

SECTION 3. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) On and after January 1, 2006, a county clerk shall not process an application for, nor issue, a:

(a) Kentucky title and registration or renewal of registration;

(b) Replacement plate, decal, or registration certificate;

(c) Duplicate registration;

(d) Transfer of registration; or

(e) Temporary tag;

for any personal motor vehicle as defined in subsection (1) of Section 1 of this Act if AVIS does not list the vehicle

identification number of the personal motor vehicle as an insured vehicle, except as provided in subsection (2) of this section.

(2) If AVIS does not list the vehicle identification number of the personal motor vehicle as an insured vehicle, the county clerk may process the application if the applicant has an insurance card that indicates the required security is currently in full force on the personal motor vehicle if the card was effective no more than forty-five (45) days before the application is submitted to the county clerk.

(3) This section shall not apply to any transactions involving Kentucky motor vehicle dealers who are licensed as required by KRS 190.030.

Section 4. KRS 304.39-085 is amended to read as follows:

(1) Every authorized insurance company shall, within one (1) calendar week following the end of its accounting month, send to the Department of Vehicle Regulation a list of all persons insured by it whose policy was terminated by either cancellation or nonrenewal during such accounting month, except those persons whose nonrenewal was at the end of a policy with a term of six (6) months or longer and who failed to make a payment for the renewal of the policy. Such list shall include a description of each vehicle insured under such terminating policy.

(2) It shall be lawful for an authorized insurance company to present the information required by subsection (1) of this section by compatible computer tape approved by the Department of Vehicle Regulation.

(3) On and after January 1, 2006, this section shall not apply to policies covering personal motor vehicles as defined in Section 1 of this Act.

Section 5. KRS 304.39-117 is amended to read as follows:

(1) Each insurer issuing an insurance contract which provides security covering a motor vehicle shall provide to the insured, in compliance with administrative regulations promulgated by the department, written proof in the form of an insurance card that the insured has in effect an insurance contract providing security in conformity with this subtitle.

(2) The owner shall keep the card in his motor vehicle as prima facie evidence***, except as provided in subsection (3) of this section,*** that the required security is currently in full force and effect, and shall show the card to a peace officer upon request.

(3) On and after January 1, 2006, as to personal motor vehicles as defined in Section 1 of this Act, the card and the database created by Section 1 of this Act shall be evidence to a peace officer who requests the card if the peace officer has access to the database through AVIS. If AVIS does not list the vehicle identification number of the personal motor vehicle as an insured vehicle, the peace officer may accept an insurance card as evidence that the required security is currently in full force and effect on the personal motor vehicle if the card was effective no more than forty-five (45) days before the date on which the peace officer requests the card.

Section 6. KRS 186.021 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, a county clerk shall not issue a replacement plate, decal, or registration certificate as provided in KRS 186.180, or a registration for renewal to any person who on January 1 of any year owned a motor vehicle on which state, county, city, urban-county government, school, or special taxing district ad valorem taxes are delinquent.

(2) Pursuant to KRS 134.810(4), the owner as defined in KRS 186.010(7)(a) and (c) on January 1 of any year shall be liable for taxes due on a motor vehicle. A person other than the owner of record who applies to a county clerk to transfer the registration of a motor vehicle may pay any delinquent ad valorem taxes due on the motor vehicle to facilitate the county clerk's transferring registration of the motor vehicle. The person applying shall not be required to pay delinquent ad valorem taxes due on any other motor vehicle owned by the owner of record from which he is purchasing his motor vehicle as a condition of registration.

(3) A county clerk shall not issue a replacement plate, decal, or registration certificate as provided in KRS 186.180, or a registration renewal for any motor vehicle that is not insured in compliance with KRS 304.39-080. Each applicant for registration renewal shall present proof of compliance to the county clerk in a manner prescribed in administrative regulations issued by the Department of Insurance. ***On and after January 1, 2006, if the motor vehicle is a personal motor vehicle as defined in Section 1 of this Act, proof of insurance shall be determined by the county clerk as provided in Section 3 of this Act.***

Section 7. KRS 186.180 is amended to read as follows:

(1) (a) If the owner loses his copy of a registration or transfer receipt, he may obtain a duplicate from the county clerk who issued the present owner's copy of the receipt by presenting the clerk proof of insurance on the motor vehicle in compliance with KRS 304.39-080, and by filing an affidavit, upon a form furnished by the cabinet. The owner shall pay to the clerk a fee of three dollars ($3), except proof of insurance shall not be required for duplicates applied for by motor vehicle dealers as defined in KRS 190.010.

(b) When the owner's copy of any registration or transfer receipt shows that the spaces provided thereon for noting and discharging security interests have been exhausted, the owner may apply to the county clerk who issued the receipt in order to obtain a duplicate thereof. The owner shall surrender his copy of the current receipt to the clerk and provide proof of insurance on the motor vehicle in compliance with KRS 304.39-080, before a duplicate may be issued. The owner shall pay the clerk a fee of three dollars ($3), except proof of insurance shall not be required for duplicates applied for by motor vehicle dealers as defined in KRS 190.010.

(c) Any security interest which has been discharged as shown by the records of the clerk or upon the owner's copy of the current receipt shall be omitted from the duplicate receipt to be issued by the clerk.

(2) If the owner loses a registration plate, he shall surrender his registration receipt to the county clerk from whom it was obtained and file a written statement as to the loss of the plate. Upon presenting the clerk proof of insurance on the motor vehicle in compliance with KRS 304.39-080, and upon the payment of the sum of three dollars ($3) for each plate and a fee of three dollars ($3) to the clerk for his services, the owner shall be issued another registration receipt and a plate or plates which shall bear a different number from that of the lost plate. The clerk shall retain the owner's statement and a copy of the owner's proof of insurance, and shall make a notation on the triplicate copy of the surrendered registration receipt stating the number of the registration receipt replacing it. The original copy of the surrendered receipt shall be forwarded to the cabinet. The cabinet shall forthwith cancel the registration corresponding to the number of the lost plate. The cancellation shall be reported by the cabinet to the commissioner of the Department of State Police. Any person finding a lost registration plate shall deliver it to the Transportation Cabinet or to any county clerk for forwarding it to the cabinet.

(3) If the owner moves from one (1) county into another county of the Commonwealth, he may obtain a registration plate bearing the name of the county of residence. In order to obtain a new registration plate, the owner shall surrender his current registration receipt and current registration plate to the county clerk. Upon being provided with proof of insurance on the motor vehicle in compliance with KRS 304.39-080, the clerk shall provide the owner with a new registration receipt and plate bearing the county name. The surrendered receipt and plate shall be forwarded to the Transportation Cabinet. The fee for this registration shall be five dollars ($5) of which the clerk shall be entitled to three dollars ($3) and the cabinet shall be entitled to two dollars ($2).

(4) If the owner's registration is revoked as a result of the provisions set forth in KRS 186A.040, the owner may have his registration reinstated by the county clerk who issued the present owner's copy of the receipt by presenting the clerk proof of:

(a) Insurance on the motor vehicle in compliance with KRS 304.39-080 and by filing an affidavit upon a form furnished by the cabinet; or

(b) A valid compliance or exemption certificate in compliance with KRS 224.20-720 or issued under the authority of an air pollution control district under KRS 224.20-760.

(5) The owner of a motor vehicle that has the vehicle's registration revoked under KRS 186.290 shall pay to the clerk a fee of twenty dollars ($20), which shall be equally divided between the county clerk and the cabinet.

(6) On and after January 1, 2006, if the motor vehicle is a personal motor vehicle as defined in Section 1 of this Act, proof of insurance required under this section shall be determined by the county clerk as provided in Section 3 of this Act.

Section 8. KRS 186.190 is amended to read as follows:

(1) When a motor vehicle that has been previously registered changes ownership, the registration plate shall remain upon the motor vehicle as a part of it until the expiration of the registration year.

(2) A person shall not purchase, sell, or trade any motor vehicle without delivering to the county clerk of the county in which the sale or trade is made the title, and a notarized affidavit if required and available under KRS 138.450 attesting to the total and actual consideration paid or to be paid for the motor vehicle. Any unexpired registration shall remain valid upon transfer of the vehicle to the new owner. Except for transactions handled by a motor vehicle dealer licensed pursuant to KRS Chapter 190, the person who is purchasing the vehicle shall present proof of insurance in compliance with KRS 304.39-080 to the county clerk before the clerk transfers the registration on the vehicle. Proof of insurance shall be in the manner prescribed in administrative regulations promulgated by the Department of Insurance pursuant to KRS Chapter 13A. ***On and after January 1, 2006, if the motor vehicle is a personal motor vehicle as defined in Section 1 of this Act, proof of insurance shall be determined by the county clerk as provided in Section 3 of this Act.***

(3) Upon delivery of the title, and a notarized affidavit if required and available under KRS 138.450 attesting to the total and actual consideration paid or to be paid for the motor vehicle to the county clerk of the county in which the sale or trade was made, the seller shall pay to the county clerk a transfer fee of one dollar ($1), which shall be remitted to the Transportation Cabinet. If an affidavit is required, and available, the signatures on the affidavit shall be individually notarized before the county clerk shall issue to the purchaser a transfer of registration bearing the same data and information as contained on the original registration receipt, except the change in name and address. The seller shall pay to the county clerk a fee of three dollars ($3) for his services.

(4) When a county clerk issues to a purchaser a transfer of registration in a county other than the one (1) in which the motor vehicle was originally registered, the clerk shall immediately forward one (1) copy of the transfer of registration to the clerk of the county of original registration.

(5) If the owner junks or otherwise renders a motor vehicle unfit for future use, he shall deliver the registration plate and registration receipt to the county clerk of the county in which the motor vehicle is junked. The county clerk shall return the

plate and motor vehicle registration receipt to the Transportation Cabinet. The owner shall pay to the county clerk one dollar ($1) for his services.

(6) A licensed motor vehicle dealer shall not be required to pay the transfer fee provided by this section, but shall be required to pay the county clerk's fee provided by this section.

(7) The motor vehicle registration receipt issued by the clerk under this section shall contain information required by the Department of Vehicle Regulation.

Section 9. KRS 186A.100 is amended to read as follows:

(1) A motor vehicle dealer licensed under KRS 186.070 who sells a vehicle for use upon the highways of this state shall, unless the vehicle is bearing a license plate issued therefor in the name of the purchaser at the time it is delivered to the purchaser, equip the vehicle with a temporary tag executed in the manner prescribed below, which shall be valid for thirty (30) days from the date the vehicle is delivered to the purchaser. The cost of the tag shall be two dollars ($2), of which the clerk shall retain one dollar ($1). A motor vehicle dealer licensed under KRS 186.070 shall apply to the county clerk of the county in which the dealer maintains his principal place of business for issuance of temporary tags. Application shall be made for such tags on forms supplied to the county clerk by the Transportation Cabinet.

(2) The county clerk of any county who receives a proper application for issuance of temporary tags shall record the number of each tag issued upon the application of the dealer for such tags, or if a group of consecutively numbered temporary tags are issued to a dealer in connection with a single application, record the beginning and ending numbers of the group on the application.

(3) The clerk shall retain, for a period of two (2) years, one (1) copy of the dealer's temporary tag application, and ensure that it reflects the numbers appearing on the tags issued with respect to such application.

(4) If the owner of a motor vehicle submits to the county clerk a properly completed application for Kentucky certificate of title and registration pursuant to KRS 186A.120, any motor vehicle required to be registered and titled in Kentucky, that is not currently registered and titled in Kentucky, may be equipped with a temporary tag, which shall be valid for thirty (30) days from the date of issuance, issued by the county clerk for the purpose of operating the vehicle in Kentucky while assembling the necessary documents in order to title and register the vehicle in Kentucky. The Transportation Cabinet may establish administrative regulations governing this section.

(5) The county clerk may issue a temporary tag to the owner of a motor vehicle that is currently registered and titled in Kentucky. A temporary tag authorized by this subsection shall be used for emergency or unusual purposes as determined by the clerk for the purpose of maintaining the owner's current registration. A temporary tag authorized by this subsection may only be issued by the county clerk and shall be valid for a period of between twenty-four (24) hours and seven (7) days, as determined is necessary by the clerk. A county clerk shall not issue a temporary tag authorized by this subsection unless the owner of the motor vehicle applying for the tag presents proof of motor vehicle insurance pursuant to KRS 304.39-080. ***On and after January 1, 2006, if the motor vehicle is a personal motor vehicle as defined in Section 1 of this Act, proof of insurance shall be determined by the county clerk as provided in Section 3 of this Act.*** A temporary tag issued pursuant to this subsection shall not be reissued by the county clerk for the same owner and same motor vehicle within one (1) year of issuance of a temporary tag.

HB 139, AN ACT relating to insurance premium surcharges.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.080 is amended to read as follows:

(1) The legislative body of each city, county, or urban-county government which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance may enact or change its license fee or rate of tax to be effective July 1 of each year on a prospective basis only and shall file with the commissioner of insurance at least one hundred (100) days prior to the effective date, a copy of all ordinances and amendments which impose any such license fee or tax. No less than eighty-five (85) days prior to the effective date, the commissioner of insurance shall promptly notify each insurance company engaged in the business of insurance in the Commonwealth of those city, county, or urban-county governments which have elected to impose the license fees or taxes and the current amount of the license fee or rate of tax.

(2) Any license fee or tax imposed by a city, county, or urban-county government upon an insurance company with respect to life insurance policies, may be based upon the first year's premiums, and, if so based, shall be applied to the amount of the premiums actually collected within each calendar quarter upon the lives of persons residing within the corporate limits of the city, county, or urban-county government.

(3) Any license fee or tax imposed by a city, county, or urban-county government upon any insurance company with respect to any policy which is not a life insurance policy shall be based upon the premiums actually collected by the company within each calendar quarter on risks located within the corporate limits of the city, county, or urban-county government on those classes of business which the company is authorized to transact, less all premiums returned to policyholders. In determining the amount of license fee or tax to be collected and to be paid to the city, county, or urban-county government, the insurance company shall use the tax rate effective on the first day of the policy term. When an insurance company

collects a premium as a result of a change in the policy during the policy term, the tax rate used shall be the rate in effect on the effective date of the policy change. With respect to premiums returned to policyholders, the license fee or tax shall be returned by the insurance company to the policyholder pro rata on the unexpired amount of the premium at the same rate at which it was collected and shall be taken as a credit by the insurance company on its next quarterly report to the city, county, or urban-county government. Any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or the death of their employees, caused thereby, under the provisions of the Workers' Compensation Act.

(4) The Department of Insurance shall, by administrative regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting the tax, except that the collection fee shall not be more than fifteen percent (15%) of the fee or tax collected and remitted to the city, county or urban-county government or two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection, and remittance of the fee or tax and collection fee provided in this section, the fees or taxes set out in subsection (1), (2), or (3) of this section, together with the collection fee in this section, may be rounded off to the nearest dollar amount.

(5) Pursuant to KRS 304.3-270, if any other state retaliates against any Kentucky domiciliary insurer because of the requirements of this section, the commissioner of insurance shall impose an equal tax upon the premiums written in this state by insurers domiciled in the other state.

(6) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by administrative regulations promulgated by the Department of Insurance.

(7) ***(a)*** Upon written request of the legislative body of any city, county, or urban-county government, at the expense of the requesting city, county, or urban-county government, which shall be paid in advance by the city, county, or urban-county government to the Department of Insurance, the Department of Insurance shall examine, or cause to be examined by contract with qualified auditors, the books or records of the insurance companies or agents subject to the fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of the examination shall be reported to the city, county, or urban-county government.

(b) Willful failure to properly collect and remit the fee or tax imposed by a city, county, or urban-county government pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(c) If the Department of Insurance finds that an insurance company has willfully engaged in a pattern of business conduct that fails to properly collect and remit the fee or tax imposed by a city, county, or urban-county government pursuant to the authority granted by this section, the Department of Insurance may assess the responsible insurance company an appropriate penalty fee no greater than ten percent (10%) of the additional license fees or taxes determined to be owed to the city, county, or urban-county government. The penalty fee shall be collected by the Department of Insurance and payable to the city, county, or urban-county government owed the license fee or tax less any administrative costs of the Department of Insurance in enforcing this section. Any insurance company or agent held responsible for a penalty fee may request a hearing with the Department of Insurance to be conducted pursuant to KRS 304.2-310 to 304.2-370 regarding the finding of a willful violation and the subsequent penalty fee.

(8) The license fees or taxes provided for by subsections (2) and (3) of this section shall be due thirty (30) days after the end of each calendar quarter. Annually, by March 31, each insurer shall furnish each city, county, or urban-county government to which the tax or fee is remitted with a breakdown of all collections in the preceding calendar year for the following categories of insurance:

(a) Casualty;

(b) Automobile;

(c) Inland marine;

(d) Fire and allied perils;

(e) Health; and

(f) Life.

(9) Any ***insurance company or agent that overpays any license fee or tax to a city, county, or urban-county government shall be refunded the amount overpaid***[~~license fee or tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid. Such interest payable to the city, county, or urban-county government is separate of penalties provided for in subsection (7) of this section. No city, county, or urban-county government may impose any penalties other than those provided for in this subsection~~].

(10) No license fee or tax imposed under this section shall apply to premiums received on policies of group health insurance provided for state employees under KRS 18A.225.

(11) No county may impose the tax authorized by this section upon the premiums received on policies issued to public service companies which pay ad valorem taxes.

(12) (a) Insurance companies which pay license fees or taxes pursuant to this section shall credit city license fees or taxes

against the same license fees or taxes levied by the county, when the license fees or taxes are levied by the county on or after July 13, 1990.

(b) If a county imposed and collected the license fee or tax authorized by this section before July 1, 2000, then insurance companies that pay license fees or taxes under this section shall not credit against the county license fee or tax that portion of a city license fee or tax that becomes effective for the first time on or after July 1, 2000, or is increased effective on or after July 1, 2000. The provisions of this paragraph shall expire on June 30, 2002, unless extended by the General Assembly.

(13) No license fee or tax imposed under this section shall apply to premiums received on health insurance policies issued to individuals nor to policies issued through Kentucky Access created in KRS 304.17B-005.

The Committee on Licensing and Occupations reported **HB 126,** with Committee Substitute attached thereto, and **HB 200,** with Committee Substitute attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 126, AN ACT relating to boxing and wrestling.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 229 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall assign at least two (2) physicians to be present at ringside for each professional match. The physicians shall observe the contestant's physical condition and shall advise the commission or its representative and the referee of the contestant's physical and medical conditions before, during, and after the match. A physician under this subsection shall meet the requirements established for a physician under Section 3 of this Act.

(2) A ringside physician assigned to a professional match who determines that the contestant is physically unfit to compete may order the referee to stop the match.

Section 2. KRS 229.180 is amended to read as follows:

(1) The commission *may promulgate administrative regulations it considers*~~[is authorized to adopt and promulgate, amend or abrogate any and all rules and regulations considered by it]~~ necessary or expedient for the performance of its functions provided in this chapter. In recognition of the fact that more supervision is desirable in this area, it is the intention of the General Assembly to confer upon the commission wider discretion than that ordinarily possessed by administrative agencies.

(2) Administrative regulations promulgated under this section shall address:

(a) The procedures by which weigh-ins for all professional matches are conducted. The procedures shall require that an initial weigh-in be conducted seven (7) days prior to the scheduled start of the match, followed by a weigh-in to be conducted no less than eight (8) hours and no more than twenty-four (24) hours before the scheduled start of the match. The regulations promulgated under this paragraph shall restrict the number of pounds a contestant can loose between the initial and the pre-match weigh-ins, and shall be based on guidelines that are medically sound.

(b) The qualifications and the duties of all licensees, including the promoter's duty to ensure that:

1. Licensed physicians meeting the requirements of subsection (1) of Section 3 of this Act are present at the professional match;

2. Primary health and medical insurance is available for injuries sustained by the contestant the promoter is promoting; and

3. An ambulance and medical personnel with appropriate resuscitation equipment are continuously present at the site where the professional match takes place, and the ambulance is available for transport.

Section 3. KRS 229.111 is amended to read as follows:

(1) Contestants in a professional boxing or wrestling match or exhibition shall be examined by a reputable licensed physician appointed by the commission, and shall meet the health and fitness requirements as established in administrative regulations promulgated by the commission before participating in such a *professional*~~[boxing or wrestling]~~ match~~[or exhibition]~~. *A physician performing medical examinations under this section shall:*

(a) Hold a regular license under KRS 311.571;

(b) Be in good standing with the State Board of Medical Licensure;

(c) Have medical malpractice insurance to cover any injuries the contestant may incur that are attributable to the physician's care or lack thereof. The commission shall establish the minimum medical malpractice insurance coverage that a physician under this subsection shall have for each occurrence and for the policy period. The minimum coverage shall be uniformly applied to all physicians under this section;

(d) Have not had his or her license suspended or revoked in any jurisdiction; and

(e) Have had training in ringside medicine. The training shall be in accordance with commission-approved standards established by a nationally or regionally recognized association of ringside physicians. If no national or regional organization has established standards, the commission shall promulgate administrative regulations establishing its own standards for physician training in ringside medicine.

(2) Administrative regulations promulgated by the commission under subsection (1) of this section shall, at a minimum:

(a) Require that a urine test be given to each contestant on the day of the professional match. The regulations shall preclude the contestant from participating in the professional match if the test results reveal that the contestant is under the influence of alcohol, narcotics, drugs, stimulants, or depressants;

(b) Prohibit any contestant who has received a technical knockout in the past thirty (30) days from participating in a professional match;

(c) Prohibit a contestant who has received a knockout or suffered a serious injury in the past sixty (60) days or has experienced six (6) consecutive losses or has participated in two hundred (200) or more rounds from competing in a professional match;

(d) Require that the contestant undergo additional medical procedures prior to a professional match if the examining physician or the commission determines that the procedures are necessary for the health and safety of the contestants; and

(e) Require other actions the commission deems necessary.

(3) A contestant whose license is suspended or revoked in any jurisdiction or who is precluded from participating in a professional match under paragraphs (b) and (c) of subsection (2) of this section, may participate in a professional match if the commission determines the contestant is physically and mentally fit to compete. The determination of the contestant's fitness to compete shall be made only after the contestant submits proof to the commission that he or she has undergone a physical examination and any other medical and diagnostic procedures as the physician or the commission may require, and the results indicate there are no physical or mental reasons why the contestant should not fight.

(4) The physical examination and the medical procedures the contestant undergoes under subsection (3) of this section shall include such tests as a physician or a specialist exercising ordinary care would require, and shall take into consideration the contestant's age, injuries, performance history, number of losses, years of experience, and the number of professional matches in which the contestant has participated. In furtherance of this subsection, the commission shall promulgate administrative regulations identifying high-risk medical conditions and recommended procedures and treatment options for each condition. The procedures shall be sufficiently adequate to determine if the contestant has any condition that is aggravated or jeopardized by the contestant's participation in a professional match, and may include but not be limited to a Magnetic Resonance Imaging, a Computerized Axial Topography, a neurological examination, psychological tests, and an Electrocardiogram. In establishing the list of risks and possible treatment options, the commission shall obtain input from the Association of Ringside Physicians, the State Board of Medical Licensure, and each of the state's three (3) medical schools. Such guidelines shall be in effect until such time as the Association of Ringside Physicians or a comparable organization of industry physicians establishes guidelines.

(5) Each contestant shall be examined by a physician meeting the requirements of subsection (1) of this section at the time of the pre-match weigh-in. If the physician determines that a contestant is physically or mentally unfit to proceed, the physician shall notify a commissioner or a commission representative who shall immediately cancel the match. The results of the examination shall be reported in writing to the commission.

(6) The commission may require each contestant to present to the commission representative at the time of the weigh-in an original copy of the results of blood tests given to the contestant that show whether the contestant is free from communicable diseases. If the blood tests results reveal that the contestant has a communicable disease that poses a risk to the contestant or others licensed under this chapter, or if the contestant fails to submit the results of the blood tests to the commission, the commission representative shall immediately cancel the professional match. The commission may promulgate administrative regulations establishing protocols and procedures for:

(a) The blood tests to be given, including the time period within which a blood test shall be given prior to a match;

(b) The cancellation of a match; and

(c) The treatment of communicable diseases.

Section 4. KRS 229.151 is amended to read as follows:

(1) There is hereby established the Kentucky Athletic Commission which shall consist of seven (7) members, appointed by the Governor, with initial appointments for two (2) members for terms of four (4) years, two (2) members for terms of three (3) years, two (2) members for terms of two (2) years, and one (1) member for a term of one (1) year, except that of the members appointed after July 15, 1998, two (2) members appointed to fill the terms expiring July 14, 1999, shall serve until February 14, 2000; two (2) members appointed to fill the terms expiring July 14, 2000, shall serve until February 14, 2001; one (1) member appointed to fill the term expiring July 14, 2001, shall serve until February 14, 2002; two (2) members appointed to fill the terms expiring July 14, 2002, shall serve until February 14, 2003; and subsequent appointments shall be for four (4) year terms ending on February 14. Thereafter, members shall be appointed by the

Governor for staggered terms of four (4) years. At least one (1) member shall have a background in the professional boxing or wrestling industry. At least one (1) member shall be a[~~ licensed~~] physician ***who holds a regular license under KRS 311.571. The physician member shall be in good standing with the State Board of Medical Licensure, shall have at least five (5) years of experience as a physician, and shall not have had his license suspended or revoked in any jurisdiction***. The executive director of the Division of Occupations and Professions shall serve on the commission in an ex officio capacity. One (1) member shall be designated by the Governor as chairman and one (1) member shall be elected by the commission as vice chairman, who shall have authority to act as chairman in the event of the chairman's absence or inability to act. The chairman, vice chairman, other members of the commission, and those persons referred to in KRS 229.161, shall receive one hundred dollars ($100) per day for each meeting attended and shall be paid their actual and necessary traveling and other expenses incurred by them in the performance of their official duties. The commission shall hold one (1) regular meeting every three (3) months. Four (4) members of the commission shall constitute a quorum to conduct business.

(2) The board shall be placed for organizational purposes under the Division of Occupations and Professions which shall provide administrative and secretarial services.

(3) No member of the commission, nor his or her family member, business partner, or affiliate shall have a financial interest in any person or business entity involved in arranging, managing, promoting, organizing, producing, or fighting in a professional match in this state.

Section 5. KRS 229.171 is amended to read as follows:

(1) The commission shall have and hereby is vested with the sole direction, management, control, and jurisdiction over all professional boxing, sparring, and wrestling matches or exhibitions to be conducted, held, or given within the Commonwealth. The commission is hereby given the sole control, authority, and jurisdiction over all licenses to hold boxing, sparring, or wrestling matches or exhibitions for prizes or purses or where an admission fee is received, and over all licenses to any and all persons who participate in the boxing, sparring, or wrestling matches, or exhibitions.

(2) The commission shall administer this chapter and shall perform all duties necessary for the regulation of boxing, including supervising all professional matches and weigh-ins and enforcing the provisions of this chapter and administrative regulations promulgated thereunder.

(3) The commission shall maintain all records, including any books, papers, or documents relating to the commission's action, and shall electronically record its proceedings, meetings, hearings, and deliberations.

Section 6. KRS 229.081 is amended to read as follows:

(1) A person shall not participate in a professional match in any of the following enumerated capacities or in any other capacity as set out in administrate regulations promulgated by the commission without holding a license issued by the commission and meeting all eligibility requirements as established by the commission by promulgation of administrative regulations:

(a)[~~(1)~~] Contestant;
(b)[~~(2)~~] Judge;
(c)[~~(3)~~] Manager;
(d)[~~(4)~~] Physician;
(e)[~~(5)~~] Referee;
(f)[~~(6)~~] Timekeeper;[~~ or~~]
(g)[~~(7)~~] Trainer***; or***
(h) Promoter.

(2) Licenses issued under this section shall expire on December 31 of the year in which they are issued. The commission may establish a schedule of compensation to be paid to officials for participating in a professional match by promulgation of administrative regulations. The compensation shall be paid by the person conducting the match, and by no other person.

(3) No person who is employed by a contestant to serve in one (1) of the positions under paragraphs (b) to (h) of subsection (1) of this section shall serve in another of those positions for the same contestant. This subsection shall supersede the rules and regulations of a sanctioning organization.

(4) A contestant may serve as his or her own manager or promoter.

Section 7. KRS 229.011 is amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise the following definitions shall apply:

(1) "Advertise" ***means***[~~includes~~] the use of handbills, placards, posters, billboards, pictures, printed or written material or newspapers or other publications, or radio, television and other communication media.

(2) "Exhibition," in addition to its ordinary meaning, ***means***[~~shall include~~] a public show or showing through the medium of closed circuit television to which an admission ticket is required, or other charge is made.

(3) "Person" ***means***[~~includes~~] an individual, partnership, corporation, association or club.

(4) "Professional" ***means***[~~is~~] a boxer or wrestler who competes for a money prize, or other pecuniary gain.

(5) "Professional match" ***means***[~~is~~] a boxing, sparring, or wrestling match or exhibition in which a professional is a contestant.

(6) "Affiliate" means a person who directly, or indirectly through one (1) or more intermediaries, controls, is controlled by, or is under common control with a specified person.

Section 8. KRS 229.991 is amended to read as follows:

(1) Any person who violates subsection (1) of KRS 229.071 or subsection (1) of KRS 229.021 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than six (6) months, or both.

(2) Any person who violates subsection (2), (3), or (4) of KRS 229.021 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned in the county jail for not more than ninety (90) days, or both.

(3) Any person who violates KRS 229.081***(1)*** where the violation does not constitute a violation of KRS 229.021, shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(4) Any peace officer who willfully fails to execute the duties required of him by KRS 229.240 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500).

(5) Any person who violates any of the provisions of this chapter for which no specific penalty is provided shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100).

(6) Any person who fails to pay the taxes required by KRS 229.031 or ascertained to be due under KRS 229.041 together with the expenses incurred in the examination, within twenty (20) days after notice to the delinquent person of the amount fixed by the commission shall ipso facto forfeit his license. In addition he shall forfeit and pay into the State Treasury an additional amount equal to the taxes found to be due.

(7) Any person who violates the provisions of KRS 229.121 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) and no person who has been guilty of such an offense shall be allowed to participate in any boxing or wrestling match or exhibition for one (1) year after being found guilty of the offense.

(8) Any person failing to make the report required by subsection (2) or (4) of KRS 229.031 shall be liable for any tax the Commonwealth may lose as a result of his failure to make the required report.

SECTION 9. A NEW SECTION OF KRS CHAPTER 229 IS CREATED TO READ AS FOLLOWS:

This chapter may be cited as the Greg Page Act.

The Committee Substitute to **HB 126** is as follows:

HB 126, AN ACT relating to boxing and wrestling.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 229 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall assign at least two (2) physicians to be present at ringside for each professional match. The physicians shall observe the contestant's physical condition and shall advise the commission or its representative and the referee of the contestant's physical and medical conditions before, during, and after the match. A physician under this subsection shall meet the requirements established for a physician under Section 3 of this Act.

(2) A ringside physician assigned to a professional match who determines that the contestant is physically unfit to compete may order the referee to stop the match.

Section 2. KRS 229.180 is amended to read as follows:

(1) The commission ***may promulgate administrative regulations it considers***[~~is authorized to adopt and promulgate, amend or abrogate any and all rules and regulations considered by it~~] necessary or expedient for the performance of its functions provided in this chapter. In recognition of the fact that more supervision is desirable in this area, it is the intention of the General Assembly to confer upon the commission wider discretion than that ordinarily possessed by administrative agencies.

(2) Administrative regulations promulgated under this section shall address:

(a) The procedures by which weigh-ins for all professional matches are conducted. The procedures shall require that an initial weigh-in be conducted seven (7) days prior to the scheduled start of the match, followed by a weigh-in to be conducted no less than eight (8) hours and no more than twenty-four (24) hours before the scheduled start of the match. The regulations promulgated under this paragraph shall restrict the number of pounds a contestant can lose between the initial and the pre-match weigh-ins, and shall be based on guidelines that are medically sound.

(b) The qualifications and the duties of all licensees, including the promoter's duty to ensure that:

1. Licensed physicians meeting the requirements of subsection (1) of Section 3 of this Act are present at the professional match;

2. *Primary health and medical insurance is available for injuries sustained by the contestant the promoter is promoting; and*

3. *An ambulance and medical personnel with appropriate resuscitation equipment are continuously present at the site where the professional match takes place, and the ambulance is available for transport.*

(c) Provisions relating to the conduct and safety of those involved in professional matches, including provisions:

1. *Prohibiting the use of flash photography at the ringside;*

2. *Requiring that officials be:*

   a. *Vaccinated for hepatitis B; and*

   b. *Required to wear disposable gloves during the match and at other times determined by the commission;*

3. *Requiring that biohazard bags be placed in the corners of the ring and in the dressing rooms; and*

4. *Requiring that professionals submit a signed medical information release to the commission by which the professional's medical records during the tenure of his or her career as a professional may be accessed. The medical release form shall conform with applicable state and federal laws.*

Section 3. KRS 229.111 is amended to read as follows:

(1) Contestants in a professional boxing or wrestling match or exhibition shall be examined by a reputable licensed physician appointed by the commission, and shall meet the health and fitness requirements as established in administrative regulations promulgated by the commission before participating in such a *professional*[~~boxing or wrestling~~] match[~~ or exhibition~~]. *A physician performing medical examinations under this section shall:*

(a) Hold a regular license under KRS 311.571;

(b) Be in good standing with the State Board of Medical Licensure;

(c) Have medical malpractice insurance to cover any injuries the contestant may incur that are attributable to the physician's care or lack thereof. The commission shall establish the minimum medical malpractice insurance coverage that a physician under this subsection shall have for each occurrence and for the policy period. The minimum coverage shall be uniformly applied to all physicians under this section;

(d) Have not had his or her license suspended or revoked in any jurisdiction; and

(e) Have had training and have completed annual continuing education requirements in ringside medicine. The training and continuing education shall be in accordance with commission-approved standards established by a nationally or regionally recognized association of ringside physicians. If no national or regional organization has established standards, the commission shall promulgate administrative regulations establishing its own standards for physician training and continuing education in ringside medicine.

(2) Administrative regulations promulgated by the commission under subsection (1) of this section shall, at a minimum:

(a) Require that a urine test be given to each contestant on the day of the professional match and at other times established by the commission. The regulations shall preclude the contestant from participating in the professional match if the test results reveal that the contestant is under the influence of alcohol, narcotics, drugs, stimulants, or depressants;

(b) Prohibit any contestant who has received a technical knockout in the past forty-five (45) days from participating in a professional match;

(c) Prohibit any contestant who has received a technical knockout in the past thirty (30) days from sparring;

(d) Prohibit a contestant who has received a knockout or suffered a serious injury in the past sixty (60) days or has experienced six (6) consecutive losses or has participated in two hundred (200) or more rounds from competing in a professional match;

(e) Require that the contestant undergo additional medical procedures prior to a professional match if the examining physician or the commission determines that the procedures are necessary for the health and safety of the contestants;

(f) Require that a complete physical examination be given annually to all contestants; and

(g) Require other actions the commission deems necessary.

(3) A contestant whose license is suspended or revoked in any jurisdiction or who is precluded from participating in a professional match under paragraphs (b), (c), and (d) of subsection (2) of this section, may participate in a professional match if the original jurisdiction rescinds the suspension or the revocation and the commission determines the contestant is physically and mentally fit to compete. The determination of the contestant's fitness to compete shall be made only after the contestant submits proof to the commission that he or she has undergone a physical examination and any other medical and diagnostic procedures as the physician or the commission may require, and the results indicate there are no physical or mental reasons why the contestant should not fight.

(4) (a) The physical examination and the medical procedures the contestant undergoes under subsection (3) of this

section shall include such tests as a physician or a specialist exercising ordinary care would require, and shall take into consideration the contestant's age, injuries, performance history, number of losses, years of experience, and the number of professional matches in which the contestant has participated. In furtherance of this subsection, the commission shall promulgate administrative regulations identifying high-risk medical conditions and recommended procedures and treatment options for each condition. The procedures shall be sufficiently adequate to determine if the contestant has any condition that is aggravated or jeopardized by the contestant's participation in a professional match, and may include but not be limited to a magnetic resonance imaging, a computerized axial topography, a neurological examination, psychological tests, and an electrocardiogram. In establishing the list of risks and possible treatment options, the commission shall obtain input from the Association of Ringside Physicians, the State Board of Medical Licensure, and each of the state's three (3) medical schools. Such guidelines shall be in effect until such time as the Association of Ringside Physicians or a comparable organization of industry physicians establishes guidelines.

(b) A physical examination conducted pursuant to paragraph (a) of this subsection and subsection (2) of this section shall, at a minimum, require that:

1. A baseline magnetic resonance imaging brain scan be given;

2. A dilated eye examination be given annually;

3. Tests to detect hepatitis B and C and human immunodeficiency virus be given every one hundred eighty (180) days;

4. A baseline electrocardiogram be given;

5. A detailed history of any medical condition that may affect the professional's safety be included;

6. A final physical checkup be given at the site of the match within three (3) hours of the match; and

7. If the contestant is female, a serum or urine pregnancy test be given fourteen (14) days prior to the match.

(5) Each contestant shall be examined by a physician meeting the requirements of subsection (1) of this section at the time of the pre-match weigh-in. The examination shall comply with administrative regulations promulgated by the board and the physician shall find a contestant unfit if he or she has not complied with the provisions of subsections (3) to (5) of this section. If the physician determines that a contestant is physically or mentally unfit to proceed, the physician shall notify a commissioner or a commission representative who shall immediately cancel the match. The results of the examination shall be reported in writing to the commission.

(6) The commission may require each contestant to present to the commission representative at the time of the weigh-in an original copy of the results of blood tests given to the contestant that show whether the contestant is free from communicable diseases. If the blood tests results reveal that the contestant has a communicable disease that poses a risk to the contestant or others licensed under this chapter, or if the contestant fails to submit the results of the blood tests to the commission, the commission representative shall immediately cancel the professional match. The commission shall promulgate administrative regulations establishing protocols and procedures for:

(a) The blood tests to be given, including the time period within which a blood test shall be given prior to a match;

(b) The cancellation of a match; and

(c) The treatment of communicable diseases.

Section 4. KRS 229.151 is amended to read as follows:

(1) There is hereby established the Kentucky Athletic Commission which shall consist of seven (7) members, appointed by the Governor, with initial appointments for two (2) members for terms of four (4) years, two (2) members for terms of three (3) years, two (2) members for terms of two (2) years, and one (1) member for a term of one (1) year, except that of the members appointed after July 15, 1998, two (2) members appointed to fill the terms expiring July 14, 1999, shall serve until February 14, 2000; two (2) members appointed to fill the terms expiring July 14, 2000, shall serve until February 14, 2001; one (1) member appointed to fill the term expiring July 14, 2001, shall serve until February 14, 2002; two (2) members appointed to fill the terms expiring July 14, 2002, shall serve until February 14, 2003; and subsequent appointments shall be for four (4) year terms ending on February 14. Thereafter, members shall be appointed by the Governor for staggered terms of four (4) years. At least one (1) member shall have a background in the professional boxing or wrestling industry. At least one (1) member shall be a[~~ licensed~~] physician *who holds a regular license under KRS 311.571. The physician member shall be in good standing with the State Board of Medical Licensure, shall have at least five (5) years of experience as a physician, and shall not have had his license suspended or revoked in any jurisdiction*. The executive director of the Division of Occupations and Professions shall serve on the commission in an ex officio capacity. One (1) member shall be designated by the Governor as chairman and one (1) member shall be elected by the commission as vice chairman, who shall have authority to act as chairman in the event of the chairman's absence or inability to act. The chairman, vice chairman, other members of the commission, and those persons referred to in KRS 229.161, shall receive one hundred dollars ($100) per day for each meeting attended and shall be paid their actual and necessary traveling and other expenses incurred by them in the performance of their official duties. The commission shall hold one (1) regular meeting every three (3) months. Four (4) members of the commission shall constitute a quorum to

conduct business.

(2) The board shall be placed for organizational purposes under the Division of Occupations and Professions which shall provide administrative and secretarial services.

(3) No member of the commission, nor his or her family member, business partner, or affiliate shall have a financial interest in any person or business entity involved in arranging, managing, promoting, organizing, producing, or fighting in a professional match in this state.

Section 5. KRS 229.171 is amended to read as follows:

(1) The commission shall have and hereby is vested with the sole direction, management, control, and jurisdiction over all professional boxing, sparring, and wrestling matches or exhibitions to be conducted, held, or given within the Commonwealth. The commission is hereby given the sole control, authority, and jurisdiction over all licenses to hold boxing, sparring, or wrestling matches or exhibitions for prizes or purses or where an admission fee is received, and over all licenses to any and all persons who participate in the boxing, sparring, or wrestling matches, or exhibitions.

(2) The commission shall administer this chapter and shall perform all duties necessary for the regulation of boxing, including supervising all professional matches and weigh-ins and enforcing the provisions of this chapter and administrative regulations promulgated thereunder.

(3) The commission shall maintain all records, including any books, papers, or documents relating to the commission's action, and shall electronically record its proceedings, meetings, hearings, and deliberations.

Section 6. KRS 229.081 is amended to read as follows:

(1) A person shall not participate in a professional match in any of the following enumerated capacities or in any other capacity as set out in administrate regulations promulgated by the commission without holding a license issued by the commission and meeting all eligibility requirements as established by the commission by promulgation of administrative regulations:

(a)[~~(1)~~] Contestant;
(b)[~~(2)~~] Judge;
(c)[~~(3)~~] Manager;
(d)[~~(4)~~] Physician;
(e)[~~(5)~~] Referee;
(f)[~~(6)~~] Timekeeper;[~~ or~~]
(g)[~~(7)~~] Trainer*; or*
(h) Promoter.

(2) Licenses issued under this section shall expire on December 31 of the year in which they are issued. The commission may establish a schedule of compensation to be paid to officials for participating in a professional match by promulgation of administrative regulations. The compensation shall be paid by the person conducting the match, and by no other person.

(3) No person who is employed by a contestant to serve in one (1) of the positions under paragraphs (b) to (h) of subsection (1) of this section shall serve in another of those positions for the same contestant. This subsection shall supersede the rules and regulations of a sanctioning organization.

(4) A contestant may serve as his or her own manager or promoter.

Section 7. KRS 229.011 is amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise the following definitions shall apply:

(1) "Advertise" *means*[~~includes~~] the use of handbills, placards, posters, billboards, pictures, printed or written material or newspapers or other publications, or radio, television and other communication media.

(2) "Exhibition," in addition to its ordinary meaning, *means*[~~shall include~~] a public show or showing through the medium of closed circuit television to which an admission ticket is required, or other charge is made.

(3) "Person" *means*[~~includes~~] an individual, partnership, corporation, association or club.

(4) "Professional" *means*[~~is~~] a boxer or wrestler who competes for a money prize, or other pecuniary gain.

(5) "Professional match" *means*[~~is~~] a boxing, sparring, or wrestling match or exhibition in which a professional is a contestant.

(6) "Affiliate" means a person who directly, or indirectly through one (1) or more intermediaries, controls, is controlled by, or is under common control with a specified person.

Section 8. KRS 229.991 is amended to read as follows:

(1) Any person who violates subsection (1) of KRS 229.071 or subsection (1) of KRS 229.021 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than six (6) months, or both.

(2) Any person who violates subsection (2), (3), or (4) of KRS 229.021 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned in the county jail for not more than ninety (90) days, or both.

(3) Any person who violates KRS 229.081*(1)* where the violation does not constitute a violation of KRS 229.021, shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(4) Any peace officer who willfully fails to execute the duties required of him by KRS 229.240 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500).

(5) Any person who violates any of the provisions of this chapter for which no specific penalty is provided shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100).

(6) Any person who fails to pay the taxes required by KRS 229.031 or ascertained to be due under KRS 229.041 together with the expenses incurred in the examination, within twenty (20) days after notice to the delinquent person of the amount fixed by the commission shall ipso facto forfeit his license. In addition he shall forfeit and pay into the State Treasury an additional amount equal to the taxes found to be due.

(7) Any person who violates the provisions of KRS 229.121 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) and no person who has been guilty of such an offense shall be allowed to participate in any boxing or wrestling match or exhibition for one (1) year after being found guilty of the offense.

(8) Any person failing to make the report required by subsection (2) or (4) of KRS 229.031 shall be liable for any tax the Commonwealth may lose as a result of his failure to make the required report.

SECTION 9. A NEW SECTION OF KRS CHAPTER 229 IS CREATED TO READ AS FOLLOWS:

This chapter may be cited as the Greg Page Act.

HB 200, AN ACT relating to barbering.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 317 IS CREATED TO READ AS FOLLOWS:

The holder of a license to operate a barber shop shall not be held responsible for the actions or inaction of any person who rents physical space from the barber shop license holder as an independent contractor in the practice of barbering.

The Committee Substitute to **HB 200** is as follows:

HB 200, AN ACT relating to barbering.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 317 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of subsection (2) of this section, any person engaged in barbering who leases or rents space at a barber shop from the holder of a license to operate the barber shop shall be deemed an independent contractor.

(2) The board shall not hold the holder of a license to operate a barber shop responsible for violations of this chapter, or of administrative regulations promulgated pursuant to this chapter, that are committed by an independent contractor.

The Committee on Judiciary reported **HB 6**, with Committee Substitute attached thereto, **HB 18, HB 135**, with Committee Substitute attached thereto, **HB 140, HB 146, HB 187,** and **HCR 14** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 6, AN ACT creating the Interstate Compact for Juveniles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 615.010 is repealed and reenacted to read as follows:

The compacting states to this Interstate Compact recognize that each state is responsible for the proper supervision or return of juveniles, delinquents and status offenders who are on probation or parole and who have absconded, escaped or run away from supervision and control and in so doing have endangered their own safety and the safety of others. The compacting states also recognize that each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of residence. The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

It is the purpose of this compact, through means of joint and cooperative action among the compacting states to:

(1) Ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state;

(2) Ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected;

(3) Return juveniles who have run away, absconded or escaped from supervision or control or have been accused of an offense to the state requesting their return;

(4) Make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services;

(5) Provide for the effective tracking and supervision of juveniles;

(6) Equitably allocate the costs, benefits, and obligations of the compacting states;

(7) Establish procedures to manage the movement between states of juvenile offenders released to the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency which has jurisdiction over juvenile offenders;

(8) Ensure immediate notice to jurisdictions where defined offenders are authorized to travel or to relocate across state lines;

(9) Establish procedures to resolve pending charges (detainers) against juvenile offenders prior to transfer or release to the community under the terms of this compact;

(10) Establish a system of uniform data collection on information pertaining to juveniles subject to this compact that allows access by authorized juvenile justice and criminal justice officials, and regular reporting of Compact activities to heads of state executive, judicial, and legislative branches and juvenile and criminal justice administrators;

(11) Monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct noncompliance;

(12) Coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in such activity; and

(13) Coordinate the implementation and operation of the compact with the Interstate Compact for the Placement of Children, the Interstate Compact for Adult Offender Supervision and other compacts affecting juveniles particularly in those cases where concurrent or overlapping supervision issues arise. It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the formation of public policies and therefore are public business. Furthermore, the compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the purposes and policies of the compact.

ARTICLE II

DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

(1) "By-laws" means those by-laws established by the Interstate Commission for its governance, or for directing or controlling its actions or conduct.

(2) "Compact administrator" means the individual in each compacting state appointed pursuant to the terms of this compact, responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.

(3) "Compacting state" means any state which has enacted the enabling legislation for this compact.

(4) "Commissioner" means the voting representative of each compacting state appointed pursuant to Article III of this compact.

(5) "Court" means any court having jurisdiction over delinquent, neglected, or dependent children.

(6) "Deputy compact administrator" means the individual, if any, in each compacting state appointed to act on behalf of a Compact Administrator pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact.

(7) "Interstate Commission" means the Interstate Commission for Juveniles created by Article III of this compact.

(8) "Juvenile" means any person defined as a juvenile in any member state or by the rules of the Interstate Commission, including:

  (a) Accused delinquent - a person charged with an offense that, if committed by an adult, would be a criminal offense;

  (b) Adjudicated delinquent - a person found to have committed an offense that, if committed by an adult, would be a criminal offense;

  (c) Accused status offender - a person charged with an offense that would not be a criminal offense if committed by an adult;

  (d) Adjudicated status offender - a person found to have committed an offense that would not be a criminal offense if committed by an adult; and

  (e) Non-offender - a person in need of supervision who has not been accused or adjudicated a status offender or delinquent.

(9) "Non-compacting state" means any state which has not enacted the enabling legislation for this compact.

(10) "Probation or Parole" means any kind of supervision or conditional release of juveniles authorized under the law of the compacting states.

(11) "Rule" means a written statement by the Interstate Commission promulgated pursuant to Article VI of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Commission, and has the force and effect of statutory law in a compacting state, and includes the amendment, repeal, or suspension of an existing rule.

(12) "State" means a state of the United States, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands.

ARTICLE III

INTERSTATE COMMISSION FOR JUVENILES

(1) The compacting states hereby create the "Interstate Commission for Juveniles." The commission shall be a body corporate and joint agency of the compacting states. The commission shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(2) The Interstate Commission shall consist of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the State Council for Interstate Juvenile Supervision created hereunder. The commissioner shall be the compact administrator, deputy compact administrator or designee from that state who shall serve on the Interstate Commission in such capacity under or pursuant to the applicable law of the compacting state.

(3) In addition to the commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners, but who are members of interested organizations. Such non-commissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, Interstate Compact for Adult Offender Supervision, Interstate Compact for the Placement of Children, juvenile justice and juvenile corrections officials, and crime victims. All non-commissioner members of the Interstate Commission shall be ex-officio (non-voting) members. The Interstate Commission may provide in its by-laws for such additional ex-officio (non-voting) members, including members of other national organizations, in such numbers as shall be determined by the commission.

(4) Each compacting state represented at any meeting of the commission is entitled to one (1) vote. A majority of the compacting states shall constitute a quorum for the transactions of business, unless a larger quorum is required by the by-laws of the Interstate Commission.

(5) The commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

(6) The Interstate Commission shall establish an executive committee, which shall include commission officers, members, and others as determined by the by-laws. The executive committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking and/or amendment to the compact. The executive committee shall oversee the day-to-day activities of the administration of the compact managed by an executive director and Interstate Commission staff; administers enforcement and compliance with the provisions of the compact, its by-laws and rules, and performs such other duties as directed by the Interstate Commission or set forth in the by-laws.

(7) Each member of the Interstate Commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the Interstate Commission. A member shall vote in person and shall not delegate a vote to another compacting state. However, a commissioner, in consultation with the state council, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The by-laws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.

(8) The Interstate Commission's by-laws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

(9) Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the Rules or as otherwise provided in the Compact. The Interstate Commission and any of its committees may close a meeting to the public where it determines by two-thirds (2/3) vote that an open meeting would be likely to:

- *(a) Relate solely to the Interstate Commission's internal personnel practices and procedures;*
- *(b) Disclose matters specifically exempted from disclosure by statute;*
- *(c) Disclose trade secrets or commercial or financial information which is privileged or confidential;*
- *(d) Involve accusing any person of a crime, or formally censuring any person;*

(e) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(f) Disclose investigative records compiled for law enforcement purposes;

(g) Disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a regulated person or entity for the purpose of regulation or supervision of such person or entity;

(h) Disclose information, the premature disclosure of which would significantly endanger the stability of a regulated person or entity; or

(i) Specifically relate to the Interstate Commission's issuance of a subpoena, or its participation in a civil action or other legal proceeding.

(10) For every meeting closed pursuant to this provision, the Interstate Commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefore, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(11) The Interstate Commission shall collect standardized data concerning the interstate movement of juveniles as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall insofar as is reasonably possible conform to up-to-date technology and coordinate its information functions with the appropriate repository of records.

ARTICLE IV

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The commission shall have the following powers and duties:

(1) To provide for dispute resolution among compacting states.

(2) To promulgate rules to effect the purposes and obligations as enumerated in this compact, which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.

(3) To oversee, supervise and coordinate the interstate movement of juveniles subject to the terms of this compact and any by-laws adopted and rules promulgated by the Interstate Commission.

(4) To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the by-laws, using all necessary and proper means, including but not limited to the use of judicial process.

(5) To establish and maintain offices which shall be located within one (1) or more of the compacting states.

(6) To purchase and maintain insurance and bonds.

(7) To borrow, accept, hire or contract for services of personnel.

(8) To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Article III which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

(9) To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to, inter alia, conflicts of interest, rates of compensation, and qualifications of personnel.

(10) To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.

(11) To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

(12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.

(13) To establish a budget and make expenditures and levy dues as provided in Article VIII of this compact.

(14) To sue and be sued.

(15) To adopt a seal and by-laws governing the management and operation of the Interstate Commission.

(16) To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

(17) To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

(18) To coordinate education, training and public awareness regarding the interstate movement of juveniles for officials

involved in such activity.

(19) To establish uniform standards of the reporting, collecting and exchanging of data.

(20) The Interstate Commission shall maintain its corporate books and records in accordance with the by-laws.

ARTICLE V

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

(1) The Interstate Commission shall, by a majority of the members present and voting, within twelve (12) months after the first Interstate Commission meeting, adopt by-laws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

(a) Establishing the fiscal year of the Interstate Commission;

(b) Establishing an executive committee and such other committees as may be necessary;

(c) Provide for the establishment of committees governing any general or specific delegation of any authority or function of the Interstate Commission;

(d) Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;

(e) Establishing the titles and responsibilities of the officers of the Interstate Commission;

(f) Providing a mechanism for concluding the operations of the Interstate Commission and the return of any surplus funds that may exist upon the termination of the Compact after the payment and/or reserving of all of its debts and obligations;

(g) Providing "start-up" rules for initial administration of the compact; and

(h) Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

Section B. Officers and Staff

(1) The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson and a vice chairperson, each of whom shall have such authority and duties as may be specified in the by-laws. The chairperson, or, in the chairperson's absence or disability, the vice-chairperson shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any ordinary and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.

(2) The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a Member and shall hire and supervise such other staff as may be authorized by the Interstate Commission.

Section C. Qualified Immunity, Defense and Indemnification

(1) The Commission's executive director and employees shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that any such person shall not be protected from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

(2) The liability of any commissioner, or the employee or agent of a commissioner, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. Nothing in this subsection shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

(3) The Interstate Commission shall defend the executive director or the employees or representatives of the Interstate Commission and, subject to the approval of the Attorney General of the state represented by any commissioner of a compacting state, shall defend such commissioner or the commissioner's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(4) The Interstate Commission shall indemnify and hold the commissioner of a compacting state, or the commissioner's representatives or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or

responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE VI

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

(1) The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

(2) Rulemaking shall occur pursuant to the criteria set forth in this article and the by-laws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000), or such other administrative procedures act, as the Interstate Commission deems appropriate consistent with due process requirements under the U.S. Constitution as now or hereafter interpreted by the U.S. Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the Commission.

(3) When promulgating a rule, the Interstate Commission shall, at a minimum:

(a) Publish the proposed rule's entire text stating the reason(s) for that proposed rule;

(b) Allow and invite any and all persons to submit written data, facts, opinions and arguments, which information shall be added to the record, and be made publicly available;

(c) Provide an opportunity for an informal hearing if petitioned by ten (10) or more persons; and

(d) Promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

(4) Allow, not later than sixty (60) days after a rule is promulgated, any interested person to file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this subsection, evidence is substantial if it would be considered substantial evidence under the Model State Administrative Procedures Act.

(5) If a majority of the legislatures of the compacting states rejects a rule, those states may, by enactment of a statute or resolution in the same manner used to adopt the compact, cause that such rule shall have no further force and effect in any compacting state.

(6) The existing rules governing the operation of the Interstate Compact on Juveniles superseded by this act shall be null and void twelve (12) months after the first meeting of the Interstate Commission created hereunder.

(7) Upon determination by the Interstate Commission that a state-of-emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than ninety (90) days after the effective date of the emergency rule.

ARTICLE VII

OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION

Section A. Oversight

(1) The Interstate Commission shall oversee the administration and operations of the interstate movement of juveniles subject to this compact in the compacting states and shall monitor such activities being administered in non-compacting states which may significantly affect compacting states.

(2) The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Interstate Commission, it shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

Section B. Dispute Resolution

(1) The compacting states shall report to the Interstate Commission on all issues and activities necessary for the administration of the compact as well as issues and activities pertaining to compliance with the provisions of the compact and its by-laws and rules.

(2) The Interstate Commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and between compacting and non-compacting states. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

(3) The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this

compact using any or all means set forth in Article XI of this compact.

ARTICLE VIII

FINANCE

(1) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

(2) The Interstate Commission shall levy on and collect an annual assessment from each compacting state to cover the costs of the internal operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state and shall promulgate a rule binding upon all compacting states which governs said assessment.

(3) The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

(4) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its by-laws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE IX

THE STATE COUNCIL

Each member state shall create a State Council for Interstate Juvenile Supervision. While each state may determine the membership of its own state council, its membership must include at least one (1) representative from the legislative, judicial, and executive branches of government, victims groups, and the compact administrator, deputy compact administrator or designee. Each compacting state retains the right to determine the qualifications of the compact administrator or deputy compact administration. Each state council will advise and may exercise oversight and advocacy concerning that state's participation in Interstate Commission activities and other duties as may be determined by that state, including but not limited to, development of policy concerning operations and procedures of the compact within that state.

ARTICLE X

COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

(1) Any state, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands as defined in Article II of this compact is eligible to become a compacting state.

(2) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than thirty-five (35) of the states. The initial effective date shall be the later of July 1, 2004, or upon enactment into law by the thirty fifth (35th) jurisdiction. Thereafter it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by all states and territories of the United States.

(3) The Interstate Commission may propose amendments to the compact for enactment by the compacting states. No amendment shall become effective and binding upon the Interstate Commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

ARTICLE XI

WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT

Section A. Withdrawal

(1) Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided that a compacting state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

(2) The effective date of withdrawal is the effective date of the repeal.

(3) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other compacting states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt thereof.

(4) The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

(5) Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

Section B. Technical Assistance, Fines, Suspension, Termination and Default

(1) If the Interstate Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, or the by-laws or duly promulgated rules, the Interstate Commission may impose any or all of the following penalties:

(a) Remedial training and technical assistance as directed by the Interstate Commission;

(b) Alternative Dispute Resolution;

(c) Fines, fees, and costs in amounts as are deemed to be reasonable as fixed by the Interstate Commission; and

(d) Suspension or termination of membership in the compact, which shall be imposed only after all other reasonable means of securing compliance under the by-laws and rules have been exhausted and the Interstate Commission has therefore determined that the offending state is in default. Immediate notice of suspension shall be given by the Interstate Commission to the Governor, the Chief Justice or the Chief Judicial Officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council. The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, the by-laws, or duly promulgated rules and any other grounds designated in commission by-laws and rules. The Interstate Commission shall immediately notify the defaulting state in writing of the penalty imposed by the Interstate Commission and of the default pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination.

(2) Within sixty (60) days of the effective date of termination of a defaulting state, the Commission shall notify the Governor, the Chief Justice or Chief Judicial Officer, the Majority and Minority Leaders of the defaulting state's legislature, and the state council of such termination.

(3) The defaulting state is responsible for all assessments, obligations and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

(4) The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

(5) Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

Section C. Judicial Enforcement

The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its offices, to enforce compliance with the provisions of the compact, its duly promulgated rules and by-laws, against any compacting state in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorneys fees.

Section D. Dissolution of Compact

(1) The compact dissolves effective upon the date of the withdrawal or default of the compacting state, which reduces membership in the compact to one compacting state.

(2) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and any surplus funds shall be distributed in accordance with the by-laws.

ARTICLE XII

SEVERABILITY AND CONSTRUCTION

(1) The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(2) The provisions of this compact shall be liberally construed to effectuate its purposes.

ARTICLE XIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

Section A. Other Laws

(1) Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

(2) All compacting states' laws other than state Constitutions and other interstate compacts conflicting with this compact are superseded to the extent of the conflict.

Section B. Binding Effect of the Compact

(1) All lawful actions of the Interstate Commission, including all rules and by-laws promulgated by the Interstate

Commission, are binding upon the compacting states.

(2) All agreements between the Interstate Commission and the compacting states are binding in accordance with their terms.

(3) Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the compacting states, the Interstate Commission may issue advisory opinions regarding such meaning or interpretation.

(4) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this compact becomes effective.

Section 2. The following KRS section is repealed:

615.020 Duties of compact administrator.

Section 3. This Act takes effect as provided in Article X of Section 1 of this Act, upon the legislative enactment of the compact into law by no less than thirty-five (35) states or upon July 1, 2004, whichever is later. Until such time, KRS 615.010 and 615.020 shall remain in effect.

The Committee Substitute to **HB 6** is as follows:

HB 6, AN ACT creating the Interstate Compact for Juveniles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 615.010 is repealed and reenacted to read as follows:

ARTICLE I

PURPOSE

The compacting states to this Interstate Compact recognize that each state is responsible for the proper supervision or return of juveniles, delinquents and status offenders who are on probation or parole and who have absconded, escaped or run away from supervision and control and in so doing have endangered their own safety and the safety of others. The compacting states also recognize that each state is responsible for the safe return of juveniles who have run away from home and in doing so have left their state of residence. The compacting states also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. Section 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

It is the purpose of this compact, through means of joint and cooperative action among the compacting states to:

(1) Ensure that the adjudicated juveniles and status offenders subject to this compact are provided adequate supervision and services in the receiving state as ordered by the adjudicating judge or parole authority in the sending state;

(2) Ensure that the public safety interests of the citizens, including the victims of juvenile offenders, in both the sending and receiving states are adequately protected;

(3) Return juveniles who have run away, absconded or escaped from supervision or control or have been accused of an offense to the state requesting their return;

(4) Make contracts for the cooperative institutionalization in public facilities in member states for delinquent youth needing special services;

(5) Provide for the effective tracking and supervision of juveniles;

(6) Equitably allocate the costs, benefits, and obligations of the compacting states;

(7) Establish procedures to manage the movement between states of juvenile offenders released to the community under the jurisdiction of courts, juvenile departments, or any other criminal or juvenile justice agency which has jurisdiction over juvenile offenders;

(8) Ensure immediate notice to jurisdictions where defined offenders are authorized to travel or to relocate across state lines;

(9) Establish procedures to resolve pending charges (detainers) against juvenile offenders prior to transfer or release to the community under the terms of this compact;

(10) Establish a system of uniform data collection on information pertaining to juveniles subject to this compact that allows access by authorized juvenile justice and criminal justice officials, and regular reporting of Compact activities to heads of state executive, judicial, and legislative branches and juvenile and criminal justice administrators;

(11) Monitor compliance with rules governing interstate movement of juveniles and initiate interventions to address and correct noncompliance;

(12) Coordinate training and education regarding the regulation of interstate movement of juveniles for officials involved in

such activity; and

(13) Coordinate the implementation and operation of the compact with the Interstate Compact for the Placement of Children, the Interstate Compact for Adult Offender Supervision and other compacts affecting juveniles particularly in those cases where concurrent or overlapping supervision issues arise. It is the policy of the compacting states that the activities conducted by the Interstate Commission created herein are the formation of public policies and therefore are public business. Furthermore, the compacting states shall cooperate and observe their individual and collective duties and responsibilities for the prompt return and acceptance of juveniles subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the purposes and policies of the compact.

ARTICLE II

DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

(1) "By-laws" means those by-laws established by the Interstate Commission for its governance, or for directing or controlling its actions or conduct.

(2) "Compact administrator" means the individual in each compacting state appointed pursuant to the terms of this compact, responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this compact.

(3) "Compacting state" means any state which has enacted the enabling legislation for this compact.

(4) "Commissioner" means the voting representative of each compacting state appointed pursuant to Article III of this compact.

(5) "Court" means any court having jurisdiction over delinquent, neglected, or dependent children.

(6) "Deputy compact administrator" means the individual, if any, in each compacting state appointed to act on behalf of a Compact Administrator pursuant to the terms of this compact responsible for the administration and management of the state's supervision and transfer of juveniles subject to the terms of this compact.

(7) "Interstate Commission" means the Interstate Commission for Juveniles created by Article III of this compact.

(8) "Juvenile" means any person defined as a juvenile in any member state or by the rules of the Interstate Commission, including:

(a) Accused delinquent - a person charged with an offense that, if committed by an adult, would be a criminal offense;

(b) Adjudicated delinquent - a person found to have committed an offense that, if committed by an adult, would be a criminal offense;

(c) Accused status offender - a person charged with an offense that would not be a criminal offense if committed by an adult;

(d) Adjudicated status offender - a person found to have committed an offense that would not be a criminal offense if committed by an adult; and

(e) Non-offender - a person in need of supervision who has not been accused or adjudicated a status offender or delinquent.

(9) "Non-compacting state" means any state which has not enacted the enabling legislation for this compact.

(10) "Probation or Parole" means any kind of supervision or conditional release of juveniles authorized under the law of the compacting states.

(11) "Rule" means a written statement by the Interstate Commission promulgated pursuant to Article VI of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Commission, and has the force and effect of statutory law in a compacting state, and includes the amendment, repeal, or suspension of an existing rule.

(12) "State" means a state of the United States, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands.

ARTICLE III

INTERSTATE COMMISSION FOR JUVENILES

(1) The compacting states hereby create the "Interstate Commission for Juveniles." The commission shall be a body corporate and joint agency of the compacting states. The commission shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states in accordance with the terms of this compact.

(2) The Interstate Commission shall consist of commissioners appointed by the appropriate appointing authority in each state pursuant to the rules and requirements of each compacting state and in consultation with the State Council for Interstate Juvenile Supervision created hereunder. The commissioner shall be the compact administrator, deputy

compact administrator or designee from that state who shall serve on the Interstate Commission in such capacity under or pursuant to the applicable law of the compacting state.

(3) In addition to the commissioners who are the voting representatives of each state, the Interstate Commission shall include individuals who are not commissioners, but who are members of interested organizations. Such non-commissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general, Interstate Compact for Adult Offender Supervision, Interstate Compact for the Placement of Children, juvenile justice and juvenile corrections officials, and crime victims. All non-commissioner members of the Interstate Commission shall be ex-officio (non-voting) members. The Interstate Commission may provide in its by-laws for such additional ex-officio (non-voting) members, including members of other national organizations, in such numbers as shall be determined by the commission.

(4) Each compacting state represented at any meeting of the commission is entitled to one (1) vote. A majority of the compacting states shall constitute a quorum for the transactions of business, unless a larger quorum is required by the by-laws of the Interstate Commission.

(5) The commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the compacting states, shall call additional meetings. Public notice shall be given of all meetings and meetings shall be open to the public.

(6) The Interstate Commission shall establish an executive committee, which shall include commission officers, members, and others as determined by the by-laws. The executive committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking and/or amendment to the compact. The executive committee shall oversee the day-to-day activities of the administration of the compact managed by an executive director and Interstate Commission staff; administers enforcement and compliance with the provisions of the compact, its by-laws and rules, and performs such other duties as directed by the Interstate Commission or set forth in the by-laws.

(7) Each member of the Interstate Commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the Interstate Commission. A member shall vote in person and shall not delegate a vote to another compacting state. However, a commissioner, in consultation with the state council, shall appoint another authorized representative, in the absence of the commissioner from that state, to cast a vote on behalf of the compacting state at a specified meeting. The by-laws may provide for members' participation in meetings by telephone or other means of telecommunication or electronic communication.

(8) The Interstate Commission's by-laws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

(9) Public notice shall be given of all meetings and all meetings shall be open to the public, except as set forth in the Rules or as otherwise provided in the Compact. The Interstate Commission and any of its committees may close a meeting to the public where it determines by two-thirds (2/3) vote that an open meeting would be likely to:

- *(a) Relate solely to the Interstate Commission's internal personnel practices and procedures;*
- *(b) Disclose matters specifically exempted from disclosure by statute;*
- *(c) Disclose trade secrets or commercial or financial information which is privileged or confidential;*
- *(d) Involve accusing any person of a crime, or formally censuring any person;*
- *(e) Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;*
- *(f) Disclose investigative records compiled for law enforcement purposes;*
- *(g) Disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a regulated person or entity for the purpose of regulation or supervision of such person or entity;*
- *(h) Disclose information, the premature disclosure of which would significantly endanger the stability of a regulated person or entity; or*
- *(i) Specifically relate to the Interstate Commission's issuance of a subpoena, or its participation in a civil action or other legal proceeding.*

(10) For every meeting closed pursuant to this provision, the Interstate Commission's legal counsel shall publicly certify that, in the legal counsel's opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefore, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(11) The Interstate Commission shall collect standardized data concerning the interstate movement of juveniles as directed

through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection, exchange and reporting shall insofar as is reasonably possible conform to up-to-date technology and coordinate its information functions with the appropriate repository of records.

ARTICLE IV

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The commission shall have the following powers and duties:

(1) To provide for dispute resolution among compacting states.

(2) To promulgate rules to effect the purposes and obligations as enumerated in this compact, which shall have the force and effect of statutory law and shall be binding in the compacting states to the extent and in the manner provided in this compact.

(3) To oversee, supervise and coordinate the interstate movement of juveniles subject to the terms of this compact and any by-laws adopted and rules promulgated by the Interstate Commission.

(4) To enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the by-laws, using all necessary and proper means, including but not limited to the use of judicial process.

(5) To establish and maintain offices which shall be located within one (1) or more of the compacting states.

(6) To purchase and maintain insurance and bonds.

(7) To borrow, accept, hire or contract for services of personnel.

(8) To establish and appoint committees and hire staff which it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Article III which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

(9) To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to, inter alia, conflicts of interest, rates of compensation, and qualifications of personnel.

(10) To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of it.

(11) To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

(12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed.

(13) To establish a budget and make expenditures and levy dues as provided in Article VIII of this compact.

(14) To sue and be sued.

(15) To adopt a seal and by-laws governing the management and operation of the Interstate Commission.

(16) To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

(17) To report annually to the legislatures, governors, judiciary, and state councils of the compacting states concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

(18) To coordinate education, training and public awareness regarding the interstate movement of juveniles for officials involved in such activity.

(19) To establish uniform standards of the reporting, collecting and exchanging of data.

(20) The Interstate Commission shall maintain its corporate books and records in accordance with the by-laws.

ARTICLE V

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

Section A. By-laws

(1) The Interstate Commission shall, by a majority of the members present and voting, within twelve (12) months after the first Interstate Commission meeting, adopt by-laws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

  (a) Establishing the fiscal year of the Interstate Commission;

  (b) Establishing an executive committee and such other committees as may be necessary;

  (c) Provide for the establishment of committees governing any general or specific delegation of any authority or function of the Interstate Commission;

  (d) Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;

  (e) Establishing the titles and responsibilities of the officers of the Interstate Commission;

(f) Providing a mechanism for concluding the operations of the Interstate Commission and the return of any surplus funds that may exist upon the termination of the Compact after the payment and/or reserving of all of its debts and obligations;

(g) Providing "start-up" rules for initial administration of the compact; and

(h) Establishing standards and procedures for compliance and technical assistance in carrying out the compact.

Section B. Officers and Staff

(1) The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson and a vice chairperson, each of whom shall have such authority and duties as may be specified in the by-laws. The chairperson, or, in the chairperson's absence or disability, the vice-chairperson shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any ordinary and necessary costs and expenses incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.

(2) The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a Member and shall hire and supervise such other staff as may be authorized by the Interstate Commission.

Section C. Qualified Immunity, Defense and Indemnification

(1) The Commission's executive director and employees shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to any actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that any such person shall not be protected from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

(2) The liability of any commissioner, or the employee or agent of a commissioner, acting within the scope of such person's employment or duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of liability set forth under the Constitution and laws of that state for state officials, employees, and agents. Nothing in this subsection shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of any such person.

(3) The Interstate Commission shall defend the executive director or the employees or representatives of the Interstate Commission and, subject to the approval of the Attorney General of the state represented by any commissioner of a compacting state, shall defend such commissioner or the commissioner's representatives or employees in any civil action seeking to impose liability arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(4) The Interstate Commission shall indemnify and hold the commissioner of a compacting state, or the commissioner's representatives or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

ARTICLE VI

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

(1) The Interstate Commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of the compact.

(2) Rulemaking shall occur pursuant to the criteria set forth in this article and the by-laws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000), or such other administrative procedures act, as the Interstate Commission deems appropriate consistent with due process requirements under the U.S. Constitution as now or hereafter interpreted by the U.S. Supreme Court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the Commission.

(3) When promulgating a rule, the Interstate Commission shall, at a minimum:

(a) Publish the proposed rule's entire text stating the reason(s) for that proposed rule;

(b) Allow and invite any and all persons to submit written data, facts, opinions and arguments, which information shall be added to the record, and be made publicly available;

(c) Provide an opportunity for an informal hearing if petitioned by ten (10) or more persons; and

(d) Promulgate a final rule and its effective date, if appropriate, based on input from state or local officials, or interested parties.

(4) Allow, not later than sixty (60) days after a rule is promulgated, any interested person to file a petition in the United States District Court for the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside. For purposes of this subsection, evidence is substantial if it would be considered substantial evidence under the Model State Administrative Procedures Act.

(5) If a majority of the legislatures of the compacting states rejects a rule, those states may, by enactment of a statute or resolution in the same manner used to adopt the compact, cause that such rule shall have no further force and effect in any compacting state.

(6) The existing rules governing the operation of the Interstate Compact on Juveniles superseded by this act shall be null and void twelve (12) months after the first meeting of the Interstate Commission created hereunder.

(7) Upon determination by the Interstate Commission that a state-of-emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than ninety (90) days after the effective date of the emergency rule.

ARTICLE VII

OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION

Section A. Oversight

(1) The Interstate Commission shall oversee the administration and operations of the interstate movement of juveniles subject to this compact in the compacting states and shall monitor such activities being administered in non-compacting states which may significantly affect compacting states.

(2) The courts and executive agencies in each compacting state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder shall be received by all the judges, public officers, commissions, and departments of the state government as evidence of the authorized statute and administrative rules. All courts shall take judicial notice of the compact and the rules. In any judicial or administrative proceeding in a compacting state pertaining to the subject matter of this compact which may affect the powers, responsibilities or actions of the Interstate Commission, it shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

Section B. Dispute Resolution

(1) The compacting states shall report to the Interstate Commission on all issues and activities necessary for the administration of the compact as well as issues and activities pertaining to compliance with the provisions of the compact and its by-laws and rules.

(2) The Interstate Commission shall attempt, upon the request of a compacting state, to resolve any disputes or other issues which are subject to the compact and which may arise among compacting states and between compacting and non-compacting states. The commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among the compacting states.

(3) The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact using any or all means set forth in Article XI of this compact.

ARTICLE VIII

FINANCE

(1) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

(2) The Interstate Commission shall levy on and collect an annual assessment from each compacting state to cover the costs of the internal operations and activities of the Interstate Commission and its staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of each compacting state and the volume of interstate movement of juveniles in each compacting state and shall promulgate a rule binding upon all compacting states which governs said assessment.

(3) The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the compacting states, except by and with the authority of the compacting state.

(4) The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under

its by-laws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE IX

THE STATE COUNCIL

Each member state shall create a State Council for Interstate Juvenile Supervision. While each state may determine the membership of its own state council, its membership shall include at least one (1) representative from:

(1) The legislative branch of government;

(2) The judicial branch of government;

(3) The executive branch of government;

(4) Victims groups;

(5) The Department for Public Advocacy;

(6) The Kentucky Association for Defense Lawyers;

(7) The County Attorneys Association;

(8) The Commonwealth Attorneys Association; and

(9) The compact administrator, deputy compact administrator, or designee.

Each compacting state retains the right to determine the qualifications of the compact administrator or deputy compact administration. Each state council will advise and may exercise oversight and advocacy concerning that state's participation in Interstate Commission activities and other duties as may be determined by that state, including but not limited to, development of policy concerning operations and procedures of the compact within that state.

ARTICLE X

COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

(1) Any state, the District of Columbia (or its designee), the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands as defined in Article II of this compact is eligible to become a compacting state.

(2) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than thirty-five (35) of the states. The initial effective date shall be the later of July 1, 2005, or upon enactment into law by the thirty fifth (35th) jurisdiction. Thereafter it shall become effective and binding as to any other compacting state upon enactment of the compact into law by that state. The governors of non-member states or their designees shall be invited to participate in the activities of the Interstate Commission on a non-voting basis prior to adoption of the compact by all states and territories of the United States.

(3) The Interstate Commission may propose amendments to the compact for enactment by the compacting states. No amendment shall become effective and binding upon the Interstate Commission and the compacting states unless and until it is enacted into law by unanimous consent of the compacting states.

ARTICLE XI

WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT

Section A. Withdrawal

(1) Once effective, the compact shall continue in force and remain binding upon each and every compacting state; provided that a compacting state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

(2) The effective date of withdrawal is the effective date of the repeal.

(3) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other compacting states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt thereof.

(4) The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

(5) Reinstatement following withdrawal of any compacting state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

Section B. Technical Assistance, Fines, Suspension, Termination and Default

(1) If the Interstate Commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, or the by-laws or duly promulgated rules, the Interstate Commission may impose any or all of the following penalties:

(a) Remedial training and technical assistance as directed by the Interstate Commission;

(b) Alternative Dispute Resolution;

(c) Fines, fees, and costs in amounts as are deemed to be reasonable as fixed by the Interstate Commission; and

(d) Suspension or termination of membership in the compact, which shall be imposed only after all other reasonable means of securing compliance under the by-laws and rules have been exhausted and the Interstate Commission has therefore determined that the offending state is in default. Immediate notice of suspension shall be given by the Interstate Commission to the Governor, the Chief Justice or the Chief Judicial Officer of the state, the majority and minority leaders of the defaulting state's legislature, and the state council. The grounds for default include, but are not limited to, failure of a compacting state to perform such obligations or responsibilities imposed upon it by this compact, the by-laws, or duly promulgated rules and any other grounds designated in commission by-laws and rules. The Interstate Commission shall immediately notify the defaulting state in writing of the penalty imposed by the Interstate Commission and of the default pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the compacting states and all rights, privileges and benefits conferred by this compact shall be terminated from the effective date of termination.

(2) Within sixty (60) days of the effective date of termination of a defaulting state, the Commission shall notify the Governor, the Chief Justice or Chief Judicial Officer, the Majority and Minority Leaders of the defaulting state's legislature, and the state council of such termination.

(3) The defaulting state is responsible for all assessments, obligations and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

(4) The Interstate Commission shall not bear any costs relating to the defaulting state unless otherwise mutually agreed upon in writing between the Interstate Commission and the defaulting state.

(5) Reinstatement following termination of any compacting state requires both a reenactment of the compact by the defaulting state and the approval of the Interstate Commission pursuant to the rules.

Section C. Judicial Enforcement

The Interstate Commission may, by majority vote of the members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the federal district where the Interstate Commission has its offices, to enforce compliance with the provisions of the compact, its duly promulgated rules and by-laws, against any compacting state in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorneys fees.

Section D. Dissolution of Compact

(1) The compact dissolves effective upon the date of the withdrawal or default of the compacting state, which reduces membership in the compact to one compacting state.

(2) Upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be concluded and any surplus funds shall be distributed in accordance with the by-laws.

ARTICLE XII

SEVERABILITY AND CONSTRUCTION

(1) The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

(2) The provisions of this compact shall be liberally construed to effectuate its purposes.

ARTICLE XIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

Section A. Other Laws

(1) Nothing herein prevents the enforcement of any other law of a compacting state that is not inconsistent with this compact.

(2) All compacting states' laws other than state Constitutions and other interstate compacts conflicting with this compact are superseded to the extent of the conflict.

Section B. Binding Effect of the Compact

(1) All lawful actions of the Interstate Commission, including all rules and by-laws promulgated by the Interstate Commission, are binding upon the compacting states.

(2) All agreements between the Interstate Commission and the compacting states are binding in accordance with their terms.

(3) Upon the request of a party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the compacting states, the Interstate Commission may issue advisory opinions regarding such meaning or interpretation.

(4) In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the compacting state and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this compact becomes effective.

Section 2. The following KRS section is repealed:

615.020 Duties of compact administrator.

Section 3. This Act takes effect as provided in Article X of Section 1 of this Act, upon the legislative enactment of the compact into law by no less than thirty-five (35) states or upon July 1, 2005, whichever is later. Until such time, KRS 615.010 and 615.020 shall remain in effect.

HB 18, AN ACT relating to carrying a concealed deadly weapon.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 237.110 is amended to read as follows:

(1) The Department of State Police is authorized to issue licenses to carry concealed firearms or other deadly weapons to persons qualified as provided in this section. The Department of State Police or the Administrative Office of the Courts shall conduct a record check, covering all offenses and conditions which are required under 18 U.S.C. sec. 922(g) and this section, in the manner provided by 18 U.S.C. sec. 922(s). Licenses shall be valid throughout the state for a period of five (5) years from the date of issuance. Any person in compliance with the terms of the license may carry a concealed firearm or other deadly weapon or combination of firearms and other deadly weapons on or about his person. The licensee shall carry the license at all times the licensee is carrying a concealed firearm or other deadly weapon and shall display the license upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal violation with a penalty of twenty-five dollars ($25), payable to the clerk of the District Court.

(2) The Department of State Police, following the record check required by subsection (1) of this section, shall issue a license if the applicant:

(a) Is a resident of the state and has been a resident for six (6) months or longer immediately preceding the filing of the application;

(b) Is twenty-one (21) years of age or older;

(c) Is not ineligible to possess a firearm pursuant to 18 U.S.C. sec. 922(d)(1) or (g) or KRS 527.040;

(d) Has not been committed to a state or federal facility for the abuse of a controlled substance or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances within a three (3) year period immediately preceding the date on which the application is submitted;

(e) Does not chronically and habitually use alcoholic beverages as evidenced by the applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) years immediately preceding his application or if the applicant has been committed as an alcoholic pursuant to KRS Chapter 222, or similar laws of any other state, within the three (3) year period immediately preceding the date on which the application is submitted;

(f) Demonstrates competence with a firearm by completion of a firearms safety or training course or class offered or approved by the Department of Criminal Justice Training.

Classes presented pursuant to this paragraph shall include instruction on handguns, the safe use of handguns, the care and cleaning of handguns, handgun marksmanship principles, and actual range firing of a handgun in a safe manner. Classes presented pursuant to this paragraph shall include information on laws relating to firearms as described in KRS Chapters 237 and 527 and the law of the use of force as described in KRS Chapter 503. The Department of Criminal Justice Training shall promulgate uniform administrative regulations concerning the certification and decertification of all firearms instructors practicing in the Commonwealth of Kentucky. Notwithstanding any other provision of the Kentucky Revised Statutes, no person shall qualify as having demonstrated competence with a firearm pursuant to this subsection, unless certified by a governmental agency of the Commonwealth of Kentucky, or of the federal government. The Administrative Office of the Courts shall publish and make available, at no cost, information in a manner suitable for distribution to class participants. A legible photocopy of a certificate of completion of any of the courses or classes or a notarized affidavit from the instructor, school, club, organization, or group that conducts or teaches the course or class attesting to the completion of the course or class by the applicant shall constitute evidence of qualification under this paragraph. Peace officers who are currently certified as peace officers by the Kentucky Law Enforcement Council pursuant to KRS 15.380 to 15.404 and peace officers who are retired and are members of the Kentucky Employees Retirement System, State Police Retirement System, or County Employees Retirement System or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be deemed to have met the training requirement;

(g) Has not been adjudicated an incompetent under KRS Chapter 202B or has waited three (3) years from the date his competency was restored by the court order under KRS Chapter 202B; and

(h) Has not been involuntarily committed to a mental institution pursuant to KRS Chapter 202A, unless he possesses a certificate from a psychiatrist licensed in this state that he has not suffered from disability for a period of three (3) years.

(3) The Department of State Police may deny a license if the applicant has been found guilty of a violation of KRS 508.030 or 508.080 within the three (3) year period prior to the date on which the application is submitted or may revoke a license if the licensee has been found guilty of a violation of KRS 508.030 or 508.080 within the preceding three (3) years.

(4) The Department of State Police shall deny, suspend, or revoke a license to carry a concealed deadly weapon upon written notice by the Cabinet for Families and Children that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment, or for failure, after receiving appropriate notice, to comply with a subpoena or warrant relating to paternity or child support proceedings.

(5) The application for a permit, or renewal of a permit, to carry a concealed deadly weapon shall be obtained from the office of the sheriff in the county in which the person resides. The completed application and all accompanying material plus an application fee or renewal fee, as appropriate, of sixty dollars ($60) shall be presented to the office of the sheriff of the county in which the applicant resides. A full-time or part-time peace officer who is currently certified as a peace officer by the Kentucky Law Enforcement Council who is authorized by his or her employer or government authority to carry a concealed deadly weapon at all times and all locations within the Commonwealth pursuant to KRS 527.020 or a retired peace officer who is a member of the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be exempt from paying the application or renewal fees. The sheriff shall transmit the application and accompanying material to the Department of State Police within five (5) working days. Twenty dollars ($20) of the application fee shall be retained by the office of the sheriff for official expenses of the office. Twenty dollars ($20) shall be sent to the Department of State Police with the application. Ten dollars ($10) shall be transmitted by the sheriff to the Administrative Office of the Courts to fund background checks for youth leaders, and ten dollars ($10) shall be transmitted to the Administrative Office of the Courts to fund background checks for applicants for concealed weapons. The application shall be completed, under oath, on a form promulgated by the Department of State Police by administrative regulation which shall only include:

(a) The name, address, place and date of birth, gender, and Social Security number of the applicant;

(b) A statement that, to the best of his knowledge, the applicant is in compliance with criteria contained within subsections (2) and (3) of this section;

(c) A statement that the applicant has been furnished a copy of this section and is knowledgeable about its provisions;

(d) A statement that the applicant has been furnished a copy of, has read, and understands KRS Chapter 503 as it pertains to the use of deadly force for self-defense in Kentucky; and

(e) A conspicuous warning that the application is executed under oath and that a materially false answer to any question, or the submission of any materially false document by the applicant, subjects the applicant to criminal prosecution under KRS 523.030.

(6) The applicant, if a resident of the Commonwealth, shall submit to the sheriff of the applicant's county of residence:

(a) A completed application as described in subsection (5) of this section;

(b) A recent color photograph of the applicant, as prescribed by administrative regulation; and

(c) A photocopy of a certificate or an affidavit or document as described in subsection (2)(f) of this section.

(7) The Department of State Police shall, within ninety (90) days after the date of receipt of the items listed in subsection (6) of this section, either:

(a) Issue the license; or

(b) Deny the application based solely on the grounds that the applicant fails to qualify under the criteria listed in subsection (2) or (3) of this section. If the Department of State Police denies the application, it shall notify the applicant in writing, stating the grounds for denial and informing the applicant of a right to submit, within thirty (30) days, any additional documentation relating to the grounds of denial. Upon receiving any additional documentation, the Department of State Police shall reconsider its decision and inform the applicant within twenty (20) days of the result of the reconsideration. The applicant shall further be informed of the right to seek de novo review of the denial in the District Court of his place of residence within ninety (90) days from the date of the letter advising the applicant of the denial.

(8) The Department of State Police shall maintain an automated listing of licenseholders and pertinent information, and this information shall be available on-line, upon request, at all times to all Kentucky law enforcement agencies. Except as provided in this subsection, information on applications for licenses, names and addresses, or other identifying information relating to license holders shall be confidential and shall not be made available except to law enforcement agencies. Requests for information to be provided to any requester other than a bona fide law enforcement agency which has direct access to the Law Enforcement Information Network of Kentucky shall be made, in writing, directly to the commissioner

of the Department of State Police, together with the fee required for the providing of the information. The Department of State Police shall, upon proper application and the payment of the required fee, provide to the requester in hard copy form only, a list of names of all holders in the Commonwealth of a license to carry a concealed deadly weapon. No identifying information other than the name shall be provided, and information for geographic areas or other subdivisions of any type from the list shall not be provided and shall be confidential. The fee to be charged shall be the same as for other public records provided by the Department of State Police. No request for lists of local or statewide permit holders shall be made to any state or local law enforcement agency, peace officer, or other agency of government other than the Department of State Police, and no state or local law enforcement agency, peace officer, or agency of government, other than the Department of State Police, shall provide any information not entitled to it by law. The names of all persons, other than law enforcement agencies and peace officers, requesting information under this section shall be a public record.

(9) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after the loss or destruction of a license, the licensee shall notify the Department of State Police of the loss or destruction. Failure to notify the Department of State Police shall constitute a noncriminal violation with a penalty of twenty-five dollars ($25) payable to the clerk of the District Court. When a licensee makes application to change his or her residence address or other information on the license, neither the sheriff nor the Department of State Police shall require a surrender of the license until a new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff.

(10) If a license is lost or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may, upon payment of fifteen dollars ($15) to the Department of State Police, obtain a duplicate, upon furnishing a notarized statement to the Department of State Police that the license has been lost or destroyed.

(11) A license issued under this section shall be suspended or revoked if the licensee becomes ineligible to be issued a license under the criteria set forth in subsection (2)(a), (c), (d), (e), (f), or (h) of this section. When a domestic violence order or emergency protective order is issued pursuant to the provisions of KRS Chapter 403 against a person holding a license issued under this section, the holder of the permit shall surrender the license to the court or to the officer serving the order. The officer to whom the license is surrendered shall forthwith transmit the license to the court issuing the order. The license shall be suspended until the order is terminated, or until the judge who issued the order terminates the suspension prior to the termination of the underlying domestic violence order or emergency protective order, in writing and by return of the license, upon proper motion by the license holder. Subject to the same conditions as above, a peace officer against whom an emergency protective order or domestic violence order has been issued shall not be permitted to carry a concealed deadly weapon when not on duty, the provisions of KRS 527.020 to the contrary notwithstanding.

(12) Not less than ninety (90) days prior to the expiration date of the license, the Department of State Police shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the Department of State Police. The licensee may renew his license on or before the expiration date by filing with the sheriff of his county of residence the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections (2) and (3) of this section, and the required renewal fee. The license shall be renewed to a qualified applicant upon receipt of the completed renewal application and appropriate payment of fees. When a licensee makes application for a renewal of his or her license, neither the sheriff nor the Department of State Police shall require a surrender of the license until the new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff. A licensee who fails to file a renewal application on or before its expiration date may renew his license by paying, in addition to the license fees, a late fee of fifteen dollars ($15). No license shall be renewed six (6) months or more after its expiration date, and the license shall be deemed to be permanently expired six (6) months after its expiration date. A person whose license has permanently expired may reapply for licensure pursuant to subsections (5), (6), and (7) of this section.

(13) ***Except as provided in Section 3 of this Act,*** no license issued pursuant to this section shall authorize any person to carry a concealed firearm into:

(a) Any police station or sheriff's office;

(b) Any detention facility, prison, or jail;

(c) Any courthouse, solely occupied by the Court of Justice courtroom, or court proceeding;

(d) Any meeting of the governing body of a county, municipality, or special district; or any meeting of the General Assembly or a committee of the General Assembly, except that nothing in this section shall preclude a member of the body, holding a concealed deadly weapon license, from carrying a concealed deadly weapon at a meeting of the body of which he is a member;

(e) Any portion of an establishment licensed to dispense beer or alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to that purpose;

(f) Any elementary or secondary school facility without the consent of school authorities as provided in KRS 527.070, any child-caring facility as defined in KRS 199.011, any day-care center as defined in KRS 199.894, or any certified family child-care home as defined in KRS 199.8982, except however, any owner of a certified child-care home may carry a concealed firearm into the owner's residence used as a certified child-care home;

(g) An area of an airport to which access is controlled by the inspection of persons and property; or

(h) Any place where the carrying of firearms is prohibited by federal law.

(14) The owner, business or commercial lessee, or manager of a private business enterprise, day-care center as defined in KRS 199.894 or certified or licensed family child-care home as defined in KRS 199.8982, or a health-care facility licensed under KRS Chapter 216B, except facilities renting or leasing housing, may prohibit persons holding concealed deadly weapon licenses from carrying concealed deadly weapons on the premises and may prohibit employees, not authorized by the employer, holding concealed deadly weapons licenses from carrying concealed deadly weapons on the property of the employer. If the building or the premises are open to the public, the employer or business enterprise shall post signs on or about the premises if carrying concealed weapons is prohibited. Possession of weapons, or ammunition, or both in a vehicle on the premises shall not be a criminal offense so long as the weapons, or ammunition, or both are not removed from the vehicle or brandished while the vehicle is on the premises. A private but not a public employer may prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employer, but may not prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employee, except that the Justice Cabinet may prohibit an employee from carrying any weapons, or ammunition, or both other than the weapons, or ammunition, or both issued or authorized to be used by the employee of the cabinet, in a vehicle while transporting persons under the employee's supervision or jurisdiction. Carrying of a concealed weapon, or ammunition, or both in a location specified in this subsection by a license holder shall not be a criminal act but may subject the person to denial from the premises or removal from the premises, and, if an employee of an employer, disciplinary measures by the employer.

(15) All moneys collected by the Department of State Police pursuant to this section shall be used to administer the provisions of this section. By March 1 of each year, the Department of State Police and the Administrative Office of the Courts shall submit reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the amounts of money collected and the expenditures related to this section and KRS 237.115, 244.125, 527.020, and 527.070, and the administration of the provisions of this section and KRS 237.115, 244.125, 527.020, and 527.070.

(16) The General Assembly finds as a matter of public policy that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed firearms and to occupy the field of regulation of the bearing of concealed firearms to ensure that no person who qualifies under the provisions of this section is denied his rights. The General Assembly does not delegate to the Department of State Police the authority to regulate or restrict the issuing of licenses provided for in this section beyond those provisions contained in this section. This section shall be liberally construed to carry out the constitutional right to bear arms for self-defense.

(17) (a) A person who has a valid license issued by another state of the United States to carry a concealed deadly weapon in that state may, subject to provisions of Kentucky law, carry a concealed deadly weapon in Kentucky, and his license shall be considered as valid in Kentucky.

(b) The Department of State Police shall, not later than thirty (30) days after July 15, 1998, and not less than once every six (6) months thereafter, make written inquiry of the concealed deadly weapon carrying licensing authorities in each other state as to whether a Kentucky resident may carry a concealed deadly weapon in their state based upon having a valid Kentucky concealed deadly weapon license, or whether a Kentucky resident may apply for a concealed deadly weapon carrying license in that state based upon having a valid Kentucky concealed deadly weapon license. The Department of State Police shall attempt to secure from each other state permission for Kentucky residents who hold a valid Kentucky concealed deadly weapon license to carry concealed deadly weapons in that state, either on the basis of the Kentucky license or on the basis that the Kentucky license is sufficient to permit the issuance of a similar license by the other state. The Department of State Police shall enter into a written reciprocity agreement with the appropriate agency in each state that agrees to permit Kentucky residents to carry concealed deadly weapons in the other state on the basis of a Kentucky-issued concealed deadly weapon license or that will issue a license to carry concealed deadly weapons in the other state based upon a Kentucky concealed deadly weapon license. If a reciprocity agreement is reached, the requirement to recontact the other state each six (6) months shall be eliminated as long as the reciprocity agreement is in force. The information shall be a public record and shall be available to individual requesters free of charge for the first copy and at the normal rate for open records requests for additional copies.

(18) By March 1 of each year, the Department of State Police shall submit a statistical report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the number of licenses issued, revoked, suspended, and denied since the previous report and in total and also the number of licenses currently valid. The report shall also include the number of arrests, convictions, and types of crimes committed since the previous report by individuals licensed to carry concealed weapons.

(19) The following provisions shall apply to concealed deadly weapon training classes conducted by the Department of Criminal Justice Training or any other agency pursuant to this section:

(a) No concealed deadly weapon instructor trainer shall have his or her certification as a concealed deadly weapon instructor trainer reduced to that of instructor or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;

(b) No concealed deadly weapon instructor shall have his or her certification as a concealed deadly weapon instructor license suspended or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;

(c) Each concealed deadly weapon instructor or instructor trainer shall notify the Department of Criminal Justice Training not less than fourteen (14) days prior to the beginning of concealed deadly weapon applicant or concealed deadly weapon instructor training of the time, date, and location at which the class will be conducted. The department, upon the request of a firearms instructor trainer or certified firearms instructor, may permit a class to begin on less than fourteen (14) days' notice. The notice need not contain the names of the students. The notice may be made by mail, facsimile, e-mail, or other method which will result in the receipt of or production of a hard copy of the application. The postmark, facsimile date, or e-mail date shall be considered as the date on which the notice was sent;

(d)[~~ Each concealed deadly weapon instructor or instructor trainer who teaches a concealed deadly weapon applicant or concealed deadly weapon instructor class shall supply the Department of Criminal Justice Training with a class roster indicating which students enrolled but did not successfully complete the class, and which students enrolled and successfully completed the class which contains the name and address of each student, within five (5) working days of the completion of the class. The information may be sent by mail, facsimile, e-mail, or other method which will result in the receipt of or production of a hard copy of the information. The postmark, facsimile date, or e-mail date shall be considered as the date on which the notice was sent;~~

~~(e)~~] An instructor trainer who assists in the conduct of a concealed deadly weapon instructor class or concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her certification. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon instructor or concealed deadly weapon class;

(e)[~~(f)~~] An instructor who assists in the conduct of a concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her license. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon class;

(f)[~~(g)~~] If the Department of Criminal Justice Training believes that a firearms instructor trainer or certified firearms instructor has not in fact complied with the requirements for teaching a certified firearms instructor or applicant class by not teaching the class as specified in KRS 237.126, or who has taught an insufficient class as specified in KRS 237.128, the department shall send to each person who has been listed as successfully completing the concealed deadly weapon applicant class or concealed deadly weapon instructor class a verification form on which the time, date, date of range firing if different from the date on which the class was conducted, location, and instructor of the class is listed by the department and which requires the person to answer "yes" or "no" to specific questions regarding the conduct of the training class. The form shall be completed under oath and shall be returned to the Department of Criminal Justice Training not later than ***forty-five (45)***[~~thirty (30)~~] days after its receipt. ***A person who fails***[~~Failure~~] to complete the form, to sign the form, or to return the form to the Department of Criminal Justice Training within the time frame specified in this section or who, as a result of information on the returned form, is determined by the Department of Criminal Justice Training, following a hearing pursuant to KRS Chapter 13B, to not have received the training required by law shall ***have his or her concealed deadly weapon license revoked by***[~~be grounds for~~] the Department of State Police ***if***[~~to revoke the person's concealed deadly weapon license~~], following a hearing conducted ***by the Department of Criminal Justice Training*** pursuant to KRS Chapter 13B,[~~ at which hearing~~] the person is found to have violated the provisions of this section or ***is***[~~who has been~~] found not to have received the training required by law;

(g)[~~(h)~~] The department shall randomly inspect certified firearms instructor classes being conducted by firearms instructor trainers and shall randomly inspect applicant classes being conducted by firearms instructor trainers or certified firearms instructors to ascertain if the class is being conducted in conformity to the provisions of applicable statutes and administrative regulations and that the paperwork in the class matches the paperwork ultimately submitted by the firearms instructor trainer or certified firearms instructor for that same class. The department shall annually, not later than December 31 of each year, report to the Legislative Research Commission:

1. The number of random inspections;
2. The results of those inspections;
3. The number of deficiencies noted;
4. The nature of the deficiencies noted;
5. If a deficiency was noted, the categories of action taken by the department to either correct the deficiency or discipline the instructor, or a combination thereof;
6. The number of firearms instructor trainers and certified firearms instructors whose certifications were suspended, revoked, denied, or who were otherwise disciplined;

7. The reasons for the imposition of suspensions, revocations, denials, or other discipline; and

8. Suggestions for improvement of the concealed deadly weapon applicant training program and instructor process;

(h)[~~(i)~~] If a concealed deadly weapon license holder is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon license shall be forthwith revoked by the Department of State Police as a matter of law;

(i)[~~(j)~~] If a concealed deadly weapon instructor or instructor trainer is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon instructor certification or concealed deadly weapon instructor trainer certification shall be revoked by the Department of Criminal Justice Training as a matter of law; and

(j)[~~(k)~~] The[~~ provisions of this section shall be deemed to be retroactive to March 1, 2002, and the~~] following shall be in effect:

1. Action to eliminate the firearms instructor trainer program as done by emergency administrative regulation is rescinded, the program shall remain in effect, and no firearms instructor trainer shall have his or her certification reduced to that of certified firearms instructor;

2. The Kentucky State Police ***shall***[~~may~~] revoke the concealed deadly weapon license of any person who received no firearms training as required by KRS 237.126 and administrative regulations or who received insufficient training as required by KRS 237.128 and administrative regulations, if the person voluntarily admits nonreceipt of training or admits receipt of insufficient training, or if either nonreceipt of training or receipt of insufficient training is proven following a hearing conducted ***by the Department of Criminal Justice Training*** pursuant to KRS Chapter 13B.[~~ Any action taken by the Kentucky State Police, other than revoking a permit for voluntary admission of nonreceipt of training or receipt of insufficient training to revoke a concealed deadly weapon license of a person suspected of nonreceipt of training or receipt of insufficient training, between March 1, 2002, and July 15, 2002, is suspended until the conduct of a KRS Chapter 13B hearing after July 15, 2002; and~~

~~3. Any person who has received a training affidavit requiring the person to verify training conducted during a firearms instructor course or applicant course from the Department of Criminal Justice Training between March 1, 2002, and July 15, 2002, shall have the time to respond to the training affidavit extended to August 1, 2002. The department shall notify each person who has not, as of July 15, 2002, returned his or her training affidavit of the extension of time to file the affidavit.~~]

Section 2. KRS 237.115 is amended to read as follows:

(1) ***Except as provided in Section 3 of this Act,*** nothing contained in KRS 237.110 shall be construed to limit, restrict, or prohibit in any manner the right of a college, university, or any postsecondary education facility, including technical schools and community colleges, to control the possession of deadly weapons on any property owned or controlled by them or the right of a unit of state, city, county, urban-county, or charter county government to prohibit the carrying of concealed deadly weapons by licensees in that portion of a building actually owned, leased, or occupied by that unit of government.

(2) The legislative body of a state, city, county, or urban-county government may, by statute, administrative regulation, or ordinance, prohibit or limit the carrying of concealed deadly weapons by licensees in that portion of a building owned, leased, or controlled by that unit of government. That portion of a building in which the carrying of concealed deadly weapons is prohibited or limited shall be clearly identified by signs posted at the entrance to the restricted area. The statute or ordinance shall exempt any building used for public housing by private persons, highway rest areas, firing ranges, and private dwellings owned, leased, or controlled by that unit of government from any restriction on the carrying or possession of deadly weapons. The statute, administrative regulation, or ordinance shall not specify any criminal penalty for its violation but may specify that persons violating the statute or ordinance may be denied entrance to the building, ordered to leave the building, and if employees of the unit of government, be subject to employee disciplinary measures for violation of the provisions of the statute or ordinance. The provisions of this section shall not be deemed to be a violation of KRS 65.870 if the requirements of this section are followed. The provisions of this section shall not apply to any other unit of government.

(3) Unless otherwise specifically provided by the Kentucky Revised Statutes or applicable federal law, no criminal penalty shall attach to carrying a concealed firearm or other deadly weapon with a permit at any location at which an unconcealed firearm or other deadly weapon may be constitutionally carried.

Section 3. KRS 527.020 is amended to read as follows:

(1) A person is guilty of carrying a concealed weapon when he carries concealed a firearm or other deadly weapon on or about his person.

(2) Peace officers, when necessary for their protection in the discharge of their official duties; United States mail carriers when actually engaged in their duties; and agents and messengers of express companies, when necessary for their protection in the discharge of their official duties, may carry concealed weapons on or about their person.

(3) Policemen directly employed by state, county, city, or urban-county governments may carry concealed deadly weapons on or about their person at all times within the Commonwealth of Kentucky, when expressly authorized to do so by the government employing the officer.

(4) Persons, except those specified in subsection (5) of this section, licensed to carry a concealed deadly weapon pursuant to KRS 237.110 may carry a firearm or other concealed deadly weapon on or about their persons at all times within the Commonwealth of Kentucky, if the firearm or concealed deadly weapon is carried in conformity with the requirements of that section. Unless otherwise specifically provided by the Kentucky Revised Statutes or applicable federal law, no criminal penalty shall attach to carrying a concealed firearm or other deadly weapon with a permit at any location at which an unconcealed firearm or other deadly weapon may be constitutionally carried. No person or organization, public or private, shall prohibit a person licensed to carry a concealed deadly weapon from possessing a firearm, ammunition, or both, or other deadly weapon in his or her vehicle in compliance with the provisions of KRS 237.110 and 237.115. Any attempt by a person or organization, public or private, to violate the provisions of this subsection may be the subject of an action for appropriate relief or for damages in a Circuit Court or District Court of competent jurisdiction.

(5) *(a)* The following persons, if they hold a license to carry a concealed deadly weapon pursuant to KRS 237.110, may carry a firearm or other concealed deadly weapon on or about their persons at all times and at all locations within the Commonwealth of Kentucky, without *any* limitation *other than as provided in this subsection*:

1.[~~(a)~~] A Commonwealth's attorney or assistant Commonwealth's attorney;

2.[~~(b)~~] A county attorney or assistant county attorney;

3.[~~(c)~~] A justice or judge of the Court of Justice; and

4.[~~(d)~~] A retired or senior status justice or judge of the Court of Justice.

(b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, detention facility does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.

(c) A person specified in this section who is issued a concealed deadly weapon license shall be issued a license which bears on its face the statement that it is valid at all locations within the Commonwealth of Kentucky and may have such other identifying characteristics as determined by the Department of State Police.

(6) *(a) Except provided in this subsection,* the following persons may carry concealed deadly weapons on or about their person at all times and at all locations within the Commonwealth of Kentucky:

1.[~~(a)~~] An elected sheriff and full-time and part-time deputy sheriffs certified pursuant to KRS 15.380 to 15.404 when expressly authorized to do so by the unit of government employing the officer;

2.[~~(b)~~] An elected jailer and a deputy jailer who has successfully completed Department of Corrections basic training and maintains his or her current in-service training when expressly authorized to do so by the jailer; *and*

3.[~~(c)~~] The department head or any employee of a corrections department in any jurisdiction where the office of elected jailer has been merged with the office of sheriff who has successfully completed Department of Corrections basic training and maintains his or her current in-service training when expressly authorized to do so by the unit of government by which he or she is employed*.*[~~;~~]

(b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, detention facility does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.

(7) *(a)* A full-time paid peace officer of a government agency from another state or territory of the United States or an elected sheriff from another territory of the United States may carry a concealed deadly weapon in Kentucky, on or off duty, if the other state or territory accords a Kentucky full-time paid peace officer and a Kentucky elected sheriff the same rights by law. If the other state or territory limits a Kentucky full-time paid peace officer or elected sheriff to carrying a concealed deadly weapon while on duty, then that same restriction shall apply to a full-time paid peace officer or elected sheriff from that state or territory.

(b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, detention facility does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.

(8) A firearm or other deadly weapon shall not be deemed concealed on or about the person if it is located in a glove compartment, regularly installed in a motor vehicle by its manufacturer, regardless of whether said compartment is locked, unlocked, or does not have a locking mechanism. No person or organization, public or private, shall prohibit a person from keeping a firearm or ammunition, or both, or other deadly weapon in a glove compartment of a vehicle in accordance with the provisions of this subsection. Any attempt by a person or organization, public or private, to violate the provisions of this subsection may be the subject of an action for appropriate relief or for damages in a Circuit Court or District Court of competent jurisdiction.

(9) Carrying a concealed weapon is a Class A misdemeanor, unless the defendant has been previously convicted of a felony in which a deadly weapon was possessed, used, or displayed, in which case it is a Class D felony.

HB 135, AN ACT relating to enhancing state electronic services to businesses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 14 IS CREATED TO READ AS FOLLOWS:

(1) The Secretary of State may accept electronic signatures as notarization to meet the filing requirements for a:

- *(a) Corporation as required in KRS Chapter 271B;*
- *(b) Nonprofit corporation as required in KRS Chapter 273;*
- *(c) Professional service corporation as required in KRS Chapter 274;*
- *(d) Limited liability company as required in KRS Chapter 275; and*
- *(e) Partnership as required in KRS Chapter 362.*

(2) The electronic signature shall satisfy the requirements set forth in KRS 369.101 to 369.120.

The Committee Substitute to **HB 135** is as follows:

HB 135, AN ACT relating to enhancing state electronic services to businesses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 14 IS CREATED TO READ AS FOLLOWS:

(1) The Secretary of State may accept electronic signatures to meet the filing requirements for a:

- *(a) Corporation as required in KRS Chapter 271B;*
- *(b) Nonprofit corporation as required in KRS Chapter 273;*
- *(c) Professional service corporation as required in KRS Chapter 274;*
- *(d) Limited liability company as required in KRS Chapter 275; and*
- *(e) Partnership as required in KRS Chapter 362.*

(2) The electronic signature shall satisfy the requirements set forth in KRS 369.101 to 369.120.

HB 140, AN ACT relating to protection of personal privacy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act, unless the context requires otherwise:

(1) "Business" means a sole proprietorship, partnership, corporation, limited liability company, association, or other entity, however organized and whether or not organized to operate at a profit, including a financial institution organized, chartered, or holding a license or authorization certificate under the law of this Commonwealth, any other state, the United States, or any other country, or the parent or the subsidiary of a financial institution. The term includes an entity that destroys records;

(2) "Customer" means an individual who provides personal information to a business for the purpose of purchasing or leasing a product or obtaining a service for business;

(3) "Individual" means a natural person;

(4) "Personally identifiable information" means data capable of being associated with a particular customer through one (1) or more identifiers, including but not limited to a customer's name, address, telephone number, electronic mail address, fingerprints, photographs or computerized image, Social Security number, passport number, driver identification number, personal identification card number or code, date of birth, medical information, financial information, tax information, and disability information; and

(5) "Records" means any material, regardless of the physical form, on which information is recorded or preserved by any means, including in written or spoken words, graphically depicted, printed, or electromagnetically transmitted.

SECTION 2. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

When a business disposes of, other than by storage, any customer's records that are not required to be retained, the business shall take all reasonable steps to destroy, or arrange for the destruction of, that portion of the records containing personally identifiable information by shredding, erasing, or otherwise modifying the personal information in those records to make it unreadable or indecipherable through any means.

SECTION 3. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) Any customer injured by a violation of Section 2 of this Act may institute a civil action to recover damages.

(2) Any business that violates, proposes to violate, or has violated any provision of Section 2 of this Act may be enjoined in a civil action.

(3) The rights and remedies available under this section shall be cumulative to each other and to any other rights and remedies available under law.

Section 4. KRS 434.870 is amended to read as follows:

As used in KRS 434.870 to 434.876, unless the context otherwise requires:

(1) "Financial information" includes but is not limited to any of the following information identifiable to the individual that concerns the amount and conditions of an individual's assets, liabilities, or credit:
  (a) Account numbers and balances;
  (b) Transactional information concerning any account;
  (c) Codes, passwords, Social Security numbers, tax identification numbers, and driver's license numbers; and
  (d) Information held for the purpose of credit or loan acquisition, account access, or transaction initiation;

(2) "Financial information repository" means any person engaged in the business of providing services to customers who have a credit, deposit, trust, stock, or other financial account or relationship with the person; and

(3) "Person" means an individual, ***sole proprietorship,*** partnership, corporation, ***limited liability company,***[~~ or~~] association***, or any entity however organized and whether or not organized to operate for profit***.

HB 146, AN ACT relating to the marriage of minors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 402.020 is amended to read as follows:

(1) Marriage is prohibited and void:
  (a) With a person who has been adjudged mentally disabled by a court of competent jurisdiction;
  (b) Where there is a husband or wife living, from whom the person marrying has not been divorced;
  (c) When not solemnized or contracted in the presence of an authorized person or society;
  (d) Between members of the same sex;
  (e) Between more than two (2) persons; and
  (f) 1. Except as provided in subparagraph 3. of this paragraph, when at the time of the marriage, the person is under sixteen (16) years of age;
    2. Except as provided in subparagraph 3. of this paragraph, when at the time of marriage, the person is under eighteen (18) but over sixteen (16) years of age, if the marriage is without the consent of:
      a. The father or the mother of the person under eighteen (18) but over sixteen (16), if the parents are married, the parents are not legally separated, no legal guardian has been appointed for the person under eighteen (18) but over sixteen (16), and no court order has been issued granting custody of the person under eighteen (18) but over sixteen (16) to a party other than the father or mother;
      b. Both the father and the mother, if both be living and the parents are divorced or legally separated, and a court order of joint custody to the parents of the person under eighteen (18) but over sixteen (16) has been issued and is in effect;
      c. The surviving parent, if the parents were divorced or legally separated, and a court order of joint custody to the parents of the person under eighteen (18) but over sixteen (16) was issued prior to the death of either the father or mother, which order remains in effect;
      d. The custodial parent, as established by a court order which has not been superseded, where the parents are divorced or legally separated and joint custody of the person under eighteen (18) but over sixteen (16) has not been ordered; or
      e. Another person having lawful custodial charge of the person under eighteen (18) but over sixteen (16), but
    3. In case of pregnancy***,*** the male and female, or either of them, specified in subparagraph 1. or 2. of this

paragraph, may apply to a District Judge for permission to marry, which ***the court, exercising its discretion, may grant in writing after giving notice and an opportunity to be heard to each of the persons who would be authorized to give consent if the marriage were governed by subparagraph 2.***~~[application may be granted, in the form of a written court order, in the discretion of the judge]~~. There shall be a fee of five dollars ($5) for hearing each such application.

(2) For purposes of this section "parent," "father," or "mother" means the natural parent, father, or mother of a child under eighteen (18) unless an adoption takes place pursuant to legal process, in which case the adoptive parent, father, or mother shall be considered the parent, father, or mother to the exclusion of the natural parent, father, or mother, as applicable.

HB 187, AN ACT relating to peace officer certification.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.400 is amended to read as follows:

(1) The effective date of KRS 15.380 to 15.404 shall be December 1, 1998. All peace officers employed as of December 1, 1998, shall be deemed to have met all the requirements of KRS 15.380 to 15.404 and shall be granted certified status as long as they***:***

(a) Remain in continuous employment of the agency by which they were employed as of December 1, 1998***;***~~[,]~~

(b) Are employed by another law enforcement agency subject to the provisions of KRS 15.380 to 15.404, relating to inactive status, within the period of time specified by KRS 15.380 to 15.404; or

(c) Shall have successfully completed an approved basic training course approved and recognized by the Kentucky Law Enforcement Council pursuant to KRS 15.440(1)(d) when seeking employment with another law enforcement agency.

(2) Any peace officers employed after December 1, 1998, shall comply with all minimum standards specified in KRS 15.380 to 15.404. Persons newly employed or appointed after December 1, 1998, shall have one (1) year within which to gain certified status or they shall lose their law enforcement powers.

(3) The Open Records Act notwithstanding, the person's home address, telephone number, date of birth, Social Security number, background investigation, medical examination, psychological examination, and polygraph examination conducted for any person seeking certification pursuant to KRS 15.380 to 15.404 shall not be subject to disclosure.

Section 2. KRS 15.386 is amended to read as follows:

The following certification categories shall exist:

(1) "Precertification status" means that the officer is currently employed or appointed by an agency and meets or exceeds all those minimum qualifications set forth in KRS 15.382, but has not successfully completed a basic training course, except those officers covered by KRS 15.400. Upon the council's verification that the minimum qualifications have been met, the officer shall have full peace officer powers as authorized under the statute under which he was appointed or employed. If an officer fails to successfully complete a basic training course within one (1) year of employment, his or her enforcement powers shall automatically terminate.

(2) "Certification status" means that unless the certification is in revoked status or inactive status, the officer is currently employed or appointed by an agency and has met all training requirements ***or has been granted certification pursuant to subsection (1) of Section 1 of this Act***. The officer shall have full peace officer powers as authorized under the statute under which he was appointed or employed.

(3) (a) "Inactive status" means that unless the certification is in revoked status:

1. The person has been separated on or after December 1, 1998, from the agency by which he was employed or appointed and has no peace officer powers; or

2. The person is on military active duty for a period exceeding three hundred sixty-five (365) days.

(b) The person may remain on inactive status. A person who is on inactive status and who returns to a peace officer position shall have certification status restored if he or she has successfully completed a basic training course approved and recognized by the council, has not committed an act for which his or her certified status may be revoked pursuant to KRS 15.380 to 15.404 and successfully completes in-service training as prescribed by the council, as follows:

1. No more than forty (40) hours if the person has been on inactive status for a period of less than three (3) years, and the person was not in training deficiency status at the time of separation; or

2. No more than eighty (80) hours if the person has been on inactive status for a period of three (3) years or more, or the person was in training deficiency status at the time of separation.

(4) "Training deficiency status" means that unless the certification is in revoked status or inactive status, the officer is currently employed or appointed by an agency and has failed to meet all in-service training requirements. The officer's enforcement powers shall automatically terminate, and he or she shall not exercise peace officer powers in the Commonwealth until he or she has corrected the in-service training deficiency.

(5) "Revoked status" means that the officer has no enforcement powers and has been separated from an enforcement agency for any one (1) of the following reasons:

- (a) Failure to meet or maintain training requirements;
- (b) Willful falsification of information to obtain or maintain certified status;
- (c) Certification was the result of an administrative error;
- (d) Plea of guilty to, conviction of, or entering of an Alford plea to any felony;
- (e) Prohibition by federal or state law from possessing a firearm.

(6) "Denied status" means that a person does not meet the requirements to achieve precertification status or certification status.

(7) The design of a certificate may be changed periodically. When a new certificate is produced, it shall be distributed free of charge to each currently certified peace officer.

Section 3. KRS 15.392 is amended to read as follows:

(1) Within ten (10) working days from separation from service, the chief executive officer of the employing agency or his designee shall file with the council a summary report that provides the relevant information about the person's separation from service.

(2) If the person has been separated for any reason justifying revoked or denied status pursuant to KRS 15.386, the council shall revoke the person's certification.

(3) If the person has been separated for any other reason other than death, or one justifying revoked or denied status pursuant to KRS 15.386; and

- (a) The person has successfully completed basic training at a school certified or recognized by the council, the council shall place the certification on inactive status; or
- (b) The person has not successfully completed basic training at a school certified or recognized by the council, ***or has been granted certification pursuant to subsection (1) of Section 1 of this Act,*** the certification shall lapse.

(4) If the person has been separated due to death, the certification shall be retired.

(5) The employing agency's findings of fact and evidentiary conclusions shall be deemed final. The council shall be limited only to revoking the certification.

(6) The council shall not accept or hear complaints.

HCR 14, A CONCURRENT RESOLUTION urging the United States Supreme Court to overturn the United States Court of Appeals for the Ninth Circuit's decision regarding the pledge of allegiance.

WHEREAS, the United States Court of Appeals for the Ninth Circuit has ruled, in the case of Newdow v. United States Congress, that the officially sponsored recitation of the pledge of allegiance to the United States flag is an unconstitutional establishment of religion; and

WHEREAS, the United States Supreme Court has granted a writ of certiorari in the case, Elk Grove Unified School District v. Newdow, No. 02-1624, to decide whether to uphold the United States Court of Appeals for the Ninth Circuit's ruling; and

WHEREAS, the Supreme Court is scheduled to review the question of whether reciting the pledge of allegiance, which includes the words "under God," violates the Establishment Clause of the First Amendment, as applicable to the states through the Fourteenth Amendment; and

WHEREAS, the pledge of allegiance has a secular purpose, does not advance nor inhibit religion, and does not foster an excessive government entanglement with religion, nor is the recitation of the pledge coercive in nature; and

WHEREAS, the recitation of the pledge of allegiance is a patriotic and symbolic exercise performed by countless Americans over the years and demonstrates the love of each American for the country; and

WHEREAS, the General Assembly has enacted Kentucky Revised Statutes 158.175 and 158.195, which recognize the importance of the recitation of the pledge of allegiance to the lives of schoolchildren throughout the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The General Assembly of the Commonwealth of Kentucky urges the United States Supreme Court, in the case of Elk Grove Unified School District v. Newdow, No. 02-1624, to overturn the decision of the United States Court of Appeals for the Ninth Circuit.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this resolution to the Clerk of the United States Supreme Court, One First Street, NE, Washington, D.C., 20543.

Calendar

HB 113, 225, 4, 156, 97, 1, 2, 40, 80, 94, 104, HCR 29, 30, and **39** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order. Representative Adkins moved that the rules be suspended for a Rules Committee report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 1, 2, 4, 80, 94, 97, 113, 225, HCR 29,** and **39** have been posted for passage in the Regular Orders of the Day for January 15, 2004.

Representative Denham moved that the rules be suspended to introduce and act upon a resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 70, by Representative Denham: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Raymond Edward Curtis.

Motions, Petitions, and Communications

Representative Denham moved the adoption of the following **HR 70**:

HR 70, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Raymond Edward Curtis.

With deepest respect and admiration, we pay homage and tribute to Raymond Edward Curtis, and we pause in silent reverence for his soul.

WHEREAS, Raymond Edward Curtis was born on February 7, 1934, a native of Mason County, Kentucky, and he traversed these earthly bounds on January 9, 2004; and

WHEREAS, Raymond Edward Curtis was the loving son of the late Raymond T. Curtis and Mildred Newman Curtis, and stepmother, Hazel Hunt Curtis; he was the devoted husband of 44 years to Evelyn Hartley Curtis; he was the loving father of a daughter, Valerie Soward of Maysville; and he was the proud grandfather of a grandson, Joshua Keith Soward; and he also leaves behind a loving sister, Cassia Curtis, and a loving brother, Gerald Curtis; and

WHEREAS, Raymond Edward Curtis served his country with honor and distinction as Storekeeper Second Class in the United States Navy, aboard the Carrier, USS *Tarawa*; and

WHEREAS, Raymond Edward Curtis was an esteemed member of the Mason County community, where he regularly attended the Church of the Nazarene; he was a postal clerk at the Maysville Post Office until his retirement in 1989; and he was an avid sports fan; and

WHEREAS, the passing of Raymond Edward Curtis has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Raymond Edward Curtis, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Raymond Edward Curtis.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Evelyn Hartley Curtis, 1235 Lewis Street, Maysville, Kentucky 41056.

There being no objection **HR 70** was adopted.

Representative T. Thompson moved to withdraw **HB 61**. Agreed.

Representative Draud moved to withdraw **HB 54**. Agreed.

Representative Thomas moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Thomas moved the adoption of the following **Legislative Citation No. 5**.

The House of Representatives of the Commonwealth of Kentucky hereby pays ardent tribute to Colonel Terrence W. Wilcutt for the honor and pride that he brings to his home state as a decorated veteran of the U.S. Marine Corps and as an astronaut assigned by NASA to command STS-116, an assembly and crew-rotation mission to the International Space Station scheduled for launch this year. A native of Russellville, Kentucky, and graduate of Western Kentucky University and the United States Naval Test Pilot School, Col. Wilcutt was commissioned as a Marine in 1976, where he received F-4 Phantom training; attended the Naval Fighter Weapons School; made two overseas deployments; served as an F/A-18 Fighter Weapons and Air Combat Maneuvering Instructor; was selected to attend USNTPS where he earned the title, "Distinguished Graduate;" served as a test pilot/project officer for Strike Aircraft Test Directorate; and, logged over 4,400 flight hours. He was selected by NASA in January 1990, and became an astronaut in July 1991. He has been assigned to work on Space Shuttle Main Engine and External Tank issues; as a member of the Astronaut Support Personnel Team at the Kennedy Space Center, supporting Space Shuttle launches and landings; to work on technical issues for the Astronaut Office Operations Development Branch; as the NASA Director of Operations at the Yuri Gagarin Cosmonaut Training Center in Russia; as Chief of the Astronaut Office Shuttle Operations Branch; as a pilot on STS-68 in 1994 and STS-79 in 1996; as mission commander on STS-89 in 1998 and STS-106 in 2000; and, most recently as commander of STS-116. Having served on four space flights; logging over 1,007 hours in space; and, laboring with such skill and integrity in this most complex and demanding of professions, the members of this august body are honored to join Representative Roger Thomas in saluting the accomplishments of this beloved native son and in extending best wishes for his continued safety and success. Done in Frankfort, Kentucky, this fourteenth day of January, in the year two thousand and four.

Legislative Citation No. 5 was adopted without objection.

On the roll call for co-sponsors the vote was: **Yeas 95**. (See January 14, 2004, roll call to show co-sponsors on **Legislation Citation No. 5**-Appendix.)

Representative Meeks moved the adoption of the following **HR 62**:

HR 62, A RESOLUTION adjourning the House of Representatives in honor of the American Printing House for the Blind.

WHEREAS, the American Printing House for the Blind was founded in Louisville, Jefferson County, Kentucky in 1858 for the purpose of promoting the independence of blind and visually impaired persons by providing specialized materials, products, and services needed for education and life; and

WHEREAS, the American Printing House for the Blind is the oldest institution of its kind in the United States, and is also the world's largest company dedicated to creating products and services for people who are visually impaired; it is the official supplier of educational materials for visually impaired students below the college level in the United States and its territories; and

WHEREAS, the American Printing House for the Blind manufactures Braille, large print, recorded, CD-ROM, and tactile graphic publications, as well as a wide assortment of educational and daily living products; and it also offers a variety of services to assist consumers and professionals in the field of vision, such as "Louis," a database listing materials available in accessible media from organizations across North America; and

WHEREAS, the Marie and Eugene Callahan Museum of the American Printing House for the Blind provides an interesting look at the history of the education of blind people, and it is currently presenting to the public a traveling exhibit *In Touch With Knowledge: The Educational History of Blind People*, which continues through January 31, 2004 at the Main Library at 301 York Street in Louisville, Kentucky; and

WHEREAS, visitors to this exhibit experience hands-on reading and writing, hands-on science, and hands-on geography, and come away with a greater understanding and appreciation of how blind people receive and communicate information and achieve self-sufficiency;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives recognizes and applauds the American Printing House for the Blind for their many years of dedicated service to the blind and visually impaired. The House of Representatives also encourages the public to attend the traveling exhibit *In Touch With Knowledge: The Educational History of Blind People.*

Section 2. When the House of Representatives adjourns this day, it does so in honor of the American Printing House for the Blind.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the American Printing House for the Blind, 1839 Frankfort Avenue, Louisville, Kentucky 40206.

There being no objection **HR 62** was adopted.

Representative Adkins moved that the rules be suspended to introduce and act upon a resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 71, by Representatives Richards, Adkins, Burch, Marzian, J. Adams, Barrows, L. Clark, and Callahan: A RESOLUTION honoring Kentucky's disabled citizens and recognizing Disabilities Awareness Day.

Motions, Petitions, and Communications (Continued)

Representative Adkins moved the adoption of the following **HR 71**:

HR 71, A RESOLUTION honoring Kentucky's disabled citizens and recognizing Disabilities Awareness Day.

WHEREAS, 874,000 Kentuckians are frail, elderly or have disabilities, including mental illness and mental retardation; and

WHEREAS, there is an acute need for better funding, and a growing demand for Medicaid and other services that benefit the elderly and disabled; and

WHEREAS, during the 2004 General Assembly, it is urgent that legislators give strong consideration to increased funding of programs that provide vital services to the elderly and disabled; and

WHEREAS, attention should also be directed toward educating the general public about disabilities in order to erase the stigma associated with them;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby recognize all Kentuckians with disabilities, and we support better funding for their services.

Section 2. When the House of Representatives adjourns this day, it does so in recognition of Disabilities Awareness Day on January 14, 2004.

There being no objection **HR 71** was adopted.

On the roll call for co-sponsors the vote was: **Yeas 86**. (See January 14, 2004, roll call to show co-sponsors on **HR 71**-Appendix.)

Representative Richards moved the adoption of the following **Legislative Citation No. 8**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Disabilities Awareness Day in the State of Kentucky and pays tribute to the 874,156 Kentuckians who constitute more than twenty percent of the Commonwealth's population and whose goals as members of the "United 874K Coalition" include the elimination of physical, regulatory, financial and attitudinal barriers to services; the provision of vital information that fosters exercising their freedom to make informed choices to disabled citizens and their support providers; the opportunity to gain and maintain employment in order to become contributing tax payers; the provision by communities of a secure and protected environment for their citizens; the education of all persons, including educational, medical and judicial systems personnel, about disabilities; and that the awareness of disabilities be increased and the stigma often associated with disabilities be reduced. The members of this honorable body join with Speaker Jody Richards in recognizing January 14, 2004, as Disabilities Awareness Day in deep appreciation of the challenges faced by each citizen who yearns for a productive and meaningful life and the opportunity to make one's own worthwhile contribution to the common good. Done in Frankfort, Kentucky, this fourteenth day of January, in the year two thousand and four.

Legislative Citation No. 8 was adopted without objection.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 282, by Representatives Walton, Kerr, and Marcotte: AN ACT relating to motor vehicle usage tax.

HB 283, by Representative Thomas: AN ACT relating to eggs.

HB 284, by Representatives Kerr and Walton: AN ACT relating to driving under the influence.

HB 285, by Representatives Walton, Kerr, and P. Clark: AN ACT proposing an amendment to Section 170 of the Constitution of Kentucky relating to exemption of property from taxation.

HB 286, by Representatives J. Arnold, Sims, Wilkey, Thomas, T. Thompson, and Gooch: AN ACT relating to bovine animal assessments.

HB 287, by Representative J. Arnold: AN ACT relating to porcine animal assessment referendums.

HB 288, by Representative Bather: AN ACT relating to Medicaid oversight.

HB 289, by Representatives Geveden, Vincent, Marcotte, Cherry, Wilkey, A. Arnold, Feeley, Denham, Thomas, Brinkman, Draud, Belcher, Rasche, Buckingham, and J. Adams: AN ACT relating to county consolidation.

HB 290, by Representative Geveden: AN ACT relating to retirement.

HB 291, by Representative Geveden: AN ACT relating to real property.

HB 292, by Representatives Moberly, Miller, and J. Lee: AN ACT relating to the corporate license tax and declaring an emergency.

HJR 69, by Representative Collins: A JOINT RESOLUTION naming the John C. Cline Memorial Bridge in Martin County.

HCR 72, by Representative Upchurch: A CONCURRENT RESOLUTION asking Congress to reform the current class action process in order to ensure fair legal process for class members with legitimate claims and protect responsible companies and other institutions against frivolous interstate class actions in state courts.

HCR 73, by Representative Upchurch: A CONCURRENT RESOLUTION requesting the United States Senators of the Commonwealth of Kentucky support a floor vote for President Bush's judicial nominees.

HCR 74, by Representative Upchurch: A RESOLUTION requesting the congressional delegation of the Commonwealth of Kentucky to end the abuse of tort law against the firearms industry.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Local Government: **HB 62, 78, 109, 143, 202, 203, 258**

Tourism Development and Energy: **HB 55, HCR 8, 44, 45, 57, HJR 64**

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 1**, by Representative Nunn:

HB 1, On page 7, line 18, after "*Lieutenant Governor,*" by inserting "*Secretary of State, Attorney General, Treasurer, Commissioner of Agriculture, Auditor of Public Accounts,*"; and

On page 7, line 21, after "*Lieutenant Governor,*" by inserting "*Secretary of State, Attorney General, Treasurer, Commissioner of Agriculture, Auditor of Public Accounts,*"; and

On page 7, line 25, after "*Lieutenant Governor,*" by inserting "*Secretary of State, Attorney General, Treasurer, Commissioner of Agriculture, Auditor of Public Accounts,*".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 18, Representative Wilkey

HB 26, Representatives Rand, Pasley, Edmonds, Haydon, Buckingham, Cherry, Hall, J. Arnold, and A. Arnold

HB 58, Representatives Gray, Richards, Crenshaw, Geveden, Barrows, Adkins, Callahan, L. Clark, Moberly, and Thomas

HB 77, Representative Simpson

HB 94, Representatives Horlander, Geveden, Belcher, Weaver, Pullin, T. Thompson, Wayne, and Buckingham

HB 105, Representative Montell

HB 113, Representatives Callahan, L. Clark, Miller, and Bruce

HB 130, Representative Hall

HB 133, Representative Feeley

HB 190, Representative Hall

HB 220, Representative Stein

HB 227, Representatives Gooch, Edmonds, Mobley, and Harmon

HB 268, Representative Stein

HB 286, Representative Dw. Butler

HB 287, Representatives Wilkey, Thomas, Gooch, Sims, and Dw. Butler

HCR 6, Representative Nelson

HCR 14, Representative Yonts

Announcements

The following meeting was announced:

Committee on Government Contract Review, today upon adjournment

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 2:00 p.m., Thursday, January 15, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 2:00 p.m., Thursday, January 15, 2004, was adopted by voice vote.

THURSDAY, JANUARY 15, 2004

EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Brother Joe Adams, Chaplain Ministries, Bardstown, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Comer and Wilkey.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 14, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Denham moved that the rules be suspended to grant floor privileges, introduce, and act on a Resolution. Agreed.

Introduction of Bills and Resolutions

HR 77, by Representative Denham: A RESOLUTION adjourning the House of Representatives in honor of Amo Lucille Powell Peters upon being the recipient of the Martin Luther King Jr. Citizenship Award.

Representative Denham moved the adoption of the following **HR 77**:

HR 77, A RESOLUTION adjourning the House of Representatives in honor of Amo Lucille Powell Peters upon being the recipient of the Martin Luther King Jr. Citizenship Award.

WHEREAS, Amo Lucille Powell Peters was born on December 5, 1912; she is a native of Cynthiana, Harrison County, Kentucky, and she is a longtime resident of Maysville, Mason County, Kentucky; she was the devoted wife of the late James Peters, and she is the loving mother of seven children, ten grandchildren, and several great- and great-great-grandchildren; and

WHEREAS, Amo Lucille Powell Peters is a retired licensed practical nurse; she worked at Hayswood Hospital in Maysville for 30 years, where she was the first African-American hired at the hospital; and

WHEREAS, Amo Lucille Powell Peters has been a devout member of Bethel Baptist Church for over sixty years, where she has also served as Sunday school teacher, president of the senior choir, president of the Women's Missionary Society, and as a trustee of the administrative board; she was the recipient of their Woman of the Year Service Award in 1985; and in February 2001, the church elected to honor Mrs. Peters as an outstanding African-American; and

WHEREAS, Amo Lucille Powell Peters is an outstanding citizen in the Mason County community, where she is a commissioner on the Board of Commissioners for the Five County Aging Council; she is a member of the Retired Senior Volunteer Program; she has served on the boards of the Martin Luther King Jr. Scholarship Fund, the Ad Hoc Committee to revitalize downtown Maysville, the Licking Valley Handicapped board, the Red Cross, the Comprehend Foster Grandparents board, and the Buffalo Trace Senior Olympics Steering Committee; she has been a volunteer for Hospice of Hope; and

WHEREAS, Amo Lucille Powell Peters has served on the Housing Authority of Maysville as commissioner, chairman, and vice-chairman, and she serves as the current board chairman; and for her many years of dedicated service to her community, the Housing Authority of Maysville dedicated the Amo Peters Community Center in her honor; and

WHEREAS, Amo Lucille Powell Peters has been the recipient of numerous awards through the years, to include the Outstanding Black Women's Award in 1981, presented by the Black Coalition; the Leadership and Devotion Award in 1985, presented by the Black Caucus and Morehead State University; a Kentucky Colonel Commission from Martha Layne Collins in 1985, at the request of the Black Caucus of Maysville; the National Community Service Award in 1989, presented by the National Black Caucus in Washington, D. C.; a certificate of achievement in recognition of outstanding community service in 1996 from the Students United for Minority Awareness at Maysville Community College; and she was named Maysville's Lady of the Year in 1998 by Alpha Nu Chapter, Beta Sigma Phi Sorority; and

WHEREAS, during her many years in Mason County, Amo Lucille Powell Peters has been a strong voice for the African-American community, and she has fought for the equal rights and fair treatment of minorities; she is a follower of the teachings of Dr. Martin Luther King Jr., who recognized that justice and equality are meaningful concepts only if applied to every citizen; she is a follower of his vision of an ideal America where equality and justice will always prevail, and of his concepts of love, wisdom, and compassion toward one another; her passion for freedom and equal rights was demonstrated at the 1964 March on Frankfort, and throughout the sixties, she organized local marches and peaceful demonstrations; as chairman of the Maysville-Mason County Council on Human Relations, she worked to integrate restaurants, the hospital, the theater, and other local facilities and businesses through personal and persuasive visits; and due to her tireless efforts, the first black postal worker and the first black employee at the Social Security office in Maysville were hired; and

WHEREAS, on January 15, 2004, Amo Lucille Powell Peters will be the recipient of the Martin Luther King Jr. Citizenship Award from the Martin Luther King Jr. State Commission; and this award is given to individuals that embody the spirit and energy of the late Dr. Martin Luther King Jr.;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby recognize and congratulate Amo Lucille Powell Peters upon being the recipient of the prestigious Martin Luther King Jr. Citizenship Award on January 15, 2004. This honorable body is proud to honor Amo Lucille Powell Peters for her many contributions to the African-American community, and for her contributions to the citizens of Mason County.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Amo Lucille Powell Peters upon being the recipient of the Martin Luther King Jr. Citizenship Award.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Amo Lucille Powell Peters, 1381 Springwood Drive, Apartment 72, Maysville, Kentucky 41056.

There being no objection **HR 77** was adopted.

On the roll call for co-sponsors the vote was: **Yeas 95**. (See January 15, 2004, roll call to show co-sponsors on **HR 77**-Appendix.)

Introduction of Bills and Resolutions (Continued)

HB 293, by Representatives Siler, Miller, Dw. Butler, Draud, and Meeks: AN ACT relating to reduction in force in public schools.

HB 294, by Representative Siler: AN ACT relating to the alteration of city boundaries.

HB 295, by Representatives Bruce, Gooch, and Ballard: AN ACT relating to administrative regulations and declaring an emergency.

HB 296, by Representatives Webb and B. Smith: AN ACT relating to fair competition in the marketing of motor fuel.

HB 297, by Representatives Webb and B. Smith: AN ACT relating to contracts for the payment of taxes.

HB 298, by Representative Wayne: AN ACT relating to income taxes.

HB 299, by Representative Wayne: AN ACT relating to revenue and taxation.

HB 300, by Representative Vincent: AN ACT relating to the placement of children.

HB 301, by Representative McKee: AN ACT relating to waste tires.

HB 302, by Representative Jenkins: AN ACT relating to civil actions.

HB 303, by Representative Cherry: AN ACT relating to sexual offenders.

HB 304, by Representative Cherry: AN ACT relating to drivers' licenses.

HB 305, by Representatives Thomas and Brinkman: AN ACT relating to retailers of farm equipment and declaring an emergency.

HB 306, by Representatives A. Arnold, Comer, and Harmon: AN ACT relating to elections.

HR 75, by Representatives Barrows, Richards, L. Clark, Callahan, Adkins, Hoover, Upchurch, and DeWeese: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Pamela S. Johnson.

HR 76, by Representatives Feeley and Webb: A RESOLUTION naming the cafeteria located in the Capital Annex the "Heleringer Cafe" in honor of the former Gentleman from Jefferson 33, the Honorable Bob Heleringer.

HCR 78, by Representatives L. Clark and Adkins: A CONCURRENT RESOLUTION creating a task force of the Legislative Research Commission to study the unique needs of grandparents who are raising their grandchildren and to develop an action plan to address their needs.

HJR 79, by Representatives Bather, Wayne, and Feeley: A JOINT RESOLUTION requesting the Court of Justice to adopt new rules of civil procedure regarding the protection of a person's right to petition government and to speak freely.

HR 80, by Representative Nesler: A RESOLUTION adjourning the House of Representatives in loving memory and honor of James Edward Perkins.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 281, 283, 286, 287**

Appropriations and Revenue: **HB 271, 279, 280, 282, 292**

Education: **HB 270, HCR 66, 67**

Elections, Constitutional Amendments, and Intergovernmental Relations: **HB 285**

Health and Welfare: **HB 288, HJR 65**

Judiciary: **HB 269, 275, 276, 284, 291, HCR 72, 73, 74**

Licensing & Occupations: **HB 277**

Seniors, Military Affairs, and Public Safety: **HB 273, 274**

State Government: **HB 272, 278, 289, 290, HCR 68**

Transportation: **HJR 69**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Health and Welfare: **HB 242, 261, 100**

State Government: **HB 9, 15, 150, 188, 201, 226, 263, HCR 16**

Report of Committees

The Committee on Committees has met and reported the following changes:

Amend the January 9, 2004 Committee on Committees report to read

APPOINT:

Representative Hall, Liaison member, Budget Review Subcommittee on Transportation

REMOVE:

Representative J. Arnold, Liaison member, Budget Review Subcommittee on Transportation

The Committee on Elections, Constitutional Amendments, and Intergovernmental Affairs reported **HB 50,** with Committee Substitute attached thereto, and **HB 208,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 50, AN ACT relating to candidates' disclosure of income tax returns.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) As part of the filing papers, members of a slate of candidates or a candidate for statewide office shall file a copy of his or her state and federal income tax returns, amended tax returns, and all schedules filed for the previous two (2) years. Accompanying these documents shall be a form signed by the candidate certifying that the candidate is filing the actual and complete filed tax returns, amended tax returns, and all schedules. The tax documents and certification form shall be filed with the Secretary of State at the same time that the filing papers for office are required to be filed by KRS Chapter 117 or 118.

(2) Until the requirement of subsection (1) of this section is met by both members of a slate, or by the candidate for statewide office, the Secretary of State shall not accept for filing candidacy papers, a nomination or declaration, or a

petition under KRS Chapter 117 or 118 from the slate or the candidate.

(3) Within ten (10) business days after receipt of the tax documents and certification form, the Secretary of State shall redact the candidate's Social Security number and such additional information relating to the candidate's spouse and children that the Secretary of State determines, by administrative regulation promulgated under KRS Chapter 13B, will prevent identity theft, fraud, or other illegal acts. After the redactions have been completed, the Secretary of State shall forward to the Registry of Election Finance a copy of the tax returns, amended tax returns, and all schedules filed under subsection (1) of this section, and shall attach the original to the slate or candidate's filing papers. The tax documents and certification form shall not be made public prior to the redactions.

(4) Notwithstanding KRS 121.120(6), the Registry of Election Finance shall make the filing under subsection (1) of this section available to the public on the Internet no later than three (3) business days after its receipt by the registry.

The Committee Substitute to **HB 50** is as follows:

HB 50, AN ACT relating to candidates' disclosure of income tax returns.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

(1) As part of the filing papers, members of a slate of candidates or a candidate for statewide office, which shall not include candidates for federal office, shall file a copy of his or her state and federal income tax returns, amended tax returns, and all schedules filed for the previous two (2) years. Accompanying these documents shall be a form signed by the candidate certifying that the candidate is filing the actual and complete filed tax returns, amended tax returns, and all schedules. The tax documents and certification form shall be filed with the Secretary of State at the same time that the filing papers for office are required to be filed by KRS Chapter 117 or 118.

(2) Until the requirement of subsection (1) of this section is met by both members of a slate, or by the candidate for statewide office, the Secretary of State shall not accept for filing candidacy papers, a nomination or declaration, or a petition under KRS Chapter 117 or 118 from the slate or the candidate.

(3) Within ten (10) business days after receipt of the tax documents and certification form, the Secretary of State shall redact the candidate's Social Security number and such additional information relating to the candidate and the candidate's spouse and children that the Secretary of State determines, by administrative regulation promulgated under KRS Chapter 13B, will prevent identity theft, fraud, or other illegal acts. After the redactions have been completed, the Secretary of State shall forward to the Registry of Election Finance a copy of the tax returns, amended tax returns, and all schedules filed under subsection (1) of this section, and shall attach the original to the slate or candidate's filing papers. The tax documents and certification form shall not be made public prior to the redactions.

(4) Notwithstanding KRS 121.120(6), the Registry of Election Finance shall make the filing under subsection (1) of this section available to the public on the Internet no later than three (3) business days after its receipt by the registry.

HB 208, AN ACT relating to filing deadlines for write-in candidates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.265 is amended to read as follows:

(1) A voter may, at any regular or special election, cast a write-in vote for any person qualified as provided in subsection (2) or (3) of this section, whose name does not appear upon the ballot label as a candidate, by writing the name of his choice upon the appropriate device for the office being voted on provided on the voting machine as required by KRS 117.125. Any candidate for city office who is defeated in a partisan or nonpartisan primary election shall be ineligible as a candidate for the same office in the regular election. Any voter utilizing an absentee ballot for a regular or special election may write in a vote for any eligible person whose name does not appear upon the ballot, by writing the name of his choice under the office.

(2) Write-in votes shall be counted only for candidates for election to office who have filed a declaration of intent to be a write-in candidate with the Secretary of State or county clerk, depending on the office being sought, not less than ten (10) days preceding the date of the regular or special election. ***The declaration of intent shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which papers may be filed.*** The declaration of intent shall be on a form prescribed by the Secretary of State.

(3) A person shall be ineligible as a write-in candidate for more than one (1) office in a regular or special election.

(4) Persons who wish to run for President and Vice-President shall file a declaration of intent to be a write-in candidate, along with a list of presidential electors pledged to those candidates, with the Secretary of State not less than ten (10) days preceding the date of the regular election for those offices. ***The declaration of intent shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which papers may be filed.*** Write-in votes cast for the candidates whose names appear on the ballot shall apply to the slate of pledged presidential electors, whose names shall not appear on the ballot.

(5) The county clerk shall provide to the precinct election officers certified lists of those persons who have filed declarations of intent as provided in subsections (2) and (3) of this section. Only write-in votes cast for qualified candidates shall be counted.

(6) Two (2) election officers of opposing parties shall upon the request of any voter instruct the voter on how to cast a write-in vote.

The Committee on Health and Welfare reported **HB 52, HB 59,** with Committee Substitute attached thereto, **HB 82, HB 105,** with Committee Substitute attached thereto, **HB 148,** with Committee Substitute attached thereto, and **HB 157,** with Committee Substitute and Committee Amendment attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 52, AN ACT relating to breast cancer research, education, awareness, screening, treatment and funding and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) Effective for taxable years beginning January 1, 2005, any taxpayer required to file a return under KRS 141.180 who is entitled to an income tax refund and who desires to contribute to the breast cancer research and education trust fund created under Section 2 of this Act may designate an amount, not to exceed the amount of the refund, to be paid to the fund. Taxpayers filing a joint return may each designate a portion of the refund to be paid to the trust fund. A designation made under this section shall not affect the income tax liability of the taxpayer, but it shall reduce the income tax refund by the amount designated.

(2) The tax refund designation authorized by this section shall be printed on the face of the Kentucky individual income tax form.

(3) The instructions accompanying the individual income tax return shall include a description of the breast cancer education and research trust fund and the purposes for which the funds from the income tax checkoff may be used.

(4) The secretary of the Revenue Cabinet shall, by July 1, 2006, and by July 1 of each year thereafter, transfer the funds designated by taxpayers under this section to the breast cancer education and research trust fund created by Section 2 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The breast cancer education and research trust fund is created as a separate revolving fund. The trust fund shall consist of funds collected from the income tax check off created under Section 1 of this Act and any other proceeds from grants, contributions, appropriations, or other moneys made available for the purposes of the trust fund.

(2) Trust fund amounts not expended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year.

(3) Any interest earnings of the trust fund shall become a part of the trust fund and shall not lapse.

(4) Trust fund moneys shall be used to support breast cancer research, education, treatment, screening, and awareness in Kentucky. Funds shall be distributed as directed by the breast cancer research and education trust fund board established by Section 3 of this Act.

(5) Moneys transferred to the trust fund pursuant to Section 1 of this Act are hereby appropriated for the purposes set forth in Sections 2 to 4 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) The Breast Cancer Research and Education Trust Fund Board is hereby created for the purpose of administering the trust fund created under Section 2 of this Act. The board shall be composed of seven (7) members as follows:

(a) The director of the University of Louisville Brown Cancer Center or the director's appointed designee;

(b) The director of the University of Kentucky Markey Cancer Center or the director's appointed designee;

(c) The president of the Kentucky Breast Cancer Alliance or the president's appointed designee;

(d) The director of the Kentucky Cancer Program East or the director's appointed designee;

(e) The director of the Kentucky Cancer Program West or the director's appointed designee; and

(f) Two (2) citizens, one (1) of which shall be a breast cancer survivor, to be appointed by the Governor.

(2) The board shall be attached to the Cabinet for Health Services, Office of Women's Physical and Mental Health, for administrative purposes.

(3) The executive director of the Office of Women's Physical and Mental Health shall convene the first meeting of the board within sixty (60) days of the effective date of this Act.

(4) Board members shall serve without compensation, but may receive reimbursement for their actual and necessary expenses incurred in the performance of their duties.

(5) The term of each appointed member shall be four (4) years.

(6) A member whose term has expired may continue to serve until a successor is appointed and qualifies. A member who is appointed to an unexpired term shall serve the rest of the term and until a successor is appointed and qualifies. A member may serve two (2) consecutive four (4) year terms and shall not be reappointed for four (4) years after the completion of those terms.

(7) A majority of the full membership of the board shall constitute a quorum.

(8) At the first meeting, the board shall elect, by majority vote, a president who shall preside at all meetings and coordinate the functions and activities of the board. The president shall be elected or reelected each calendar year thereafter.

(9) The board shall meet at least two (2) times annually, but may meet more frequently, as deemed necessary, subject to call by the president or by request of a majority of the board members.

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The Breast Cancer Research and Education Trust Fund Board created by Section 3 of this Act shall:

(1) Develop a written plan for the expenditure of trust funds made available under Section 2 of this Act. The initial plan shall be completed on or before October 1, 2005, and shall be updated on an annual basis on or before October 1 of each year thereafter. The plan shall, at a minimum, include the following:

(a) A summary of existing breast cancer education, awareness, treatment, and screening programs provided to residents of Kentucky by type of program and by geographic area;

(b) A needs assessment for the Commonwealth of Kentucky that identifies additional programs that are needed by program type and geographic area, with support for why the identified programs are needed;

(c) A prioritized list of programs and research projects that the board will address with funding available through the competitive grant program established under subsection (2) of this section;

(2) Promulgate administrative regulations to establish a competitive grant program to provide funding to not-for-profit entities, educational institutions, and government agencies in Kentucky offering programs or services in the areas of breast cancer research, education, awareness, treatment, and screening.

(a) The grant program shall give preference to programs proposing to serve the medically undeserved population.

(b) The grant program shall provide funding to projects and programs in accordance with the priorities established in the plan developed under subsection (1) of this section.

(c) The administrative regulations shall, at a minimum:

1. Establish an application process and requirements;

2. Set forth program and outcome measurement requirements;

3. Establish an application review and award process; and

4. Provide monitoring, oversight, and reporting requirements for funded programs;

(3) Promulgate administrative regulations necessary to carry out the provisions of Sections 2 to 4 of this Act; and

(4) Provide to the Governor and the Legislative Research Commission an annual report by October 1 of each year. The report shall include the plan developed under subsection (1) of this section for the expenditure of funds for the current and next fiscal year; a summary of the use and impact of prior year funds; a summary of the activities of the board during the prior fiscal year; and any recommendations for future initiatives or action regarding breast cancer research, education, awareness, treatment, and screening.

HB 59, AN ACT relating to continuing care retirement communities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The following KRS section is repealed:

216B.335 Limitation upon establishment of nursing home beds.

The Committee Substitute to **HB 59** is as follows:

HB 59, AN ACT relating to continuing care retirement communities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216B.335 is amended to read as follows:

The establishment of continuing care retirement community nursing home beds under KRS 216B.015, 216B.020, 216B.330, and 216B.332 shall be limited to the time period commencing upon July 14, 2000, and ending July 31, ***2008***~~[2004]~~. ***After July 31, 2008,*** no further continuing care retirement community nursing home beds shall be established under KRS 216B.015, 216B.020, 216B.330, and 216B.332 without affirmative actions of the General Assembly.

HB 82, AN ACT relating to communicable diseases.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.180 is amended to read as follows:

(1) The cabinet shall enforce the administrative regulations promulgated by the secretary of the Cabinet for Health Services for the regulation and control of the matters set out below and shall formulate, promote, establish, and execute policies, plans, and programs relating to all matters of public health, including but not limited to the following matters:

(a) Detection, prevention, and control of communicable diseases, chronic and degenerative diseases, dental diseases and abnormalities, occupational diseases and health hazards peculiar to industry, home accidents and health hazards, animal diseases which are transmissible to man, and other diseases and health hazards that may be controlled;

(b) The adoption of regulations specifying the information required in and a minimum time period for reporting a sexually transmitted disease. In adopting the regulations the cabinet shall consider the need for information, protection for the privacy and confidentiality of the patient, and the practical ability of persons and laboratories to report in a reasonable fashion. The cabinet shall require reporting of physician-diagnosed cases of acquired immunodeficiency syndrome based upon diagnostic criteria from the Centers for Disease Control and Prevention of the United States Public Health Service. No later than October 1, ***2004***[~~2000~~], the cabinet shall require reporting of cases of human immunodeficiency virus infection by reporting of ***the name***[~~a unique code~~] and other relevant data as requested by the Centers for Disease Control and Prevention and as further specified in KRS 214.645. Nothing in this section shall be construed to prohibit the cabinet from identifying infected patients when and if an effective cure for human immunodeficiency virus infection or any immunosuppression caused by human immunodeficiency virus is found or a treatment which would render a person noninfectious is found, for the purposes of offering or making the cure or treatment known to the patient.

(c) The control of insects, rodents, and other vectors of disease; the safe handling of food and food products; the safety of cosmetics; the control of narcotics, barbiturates, and other drugs as provided by law; the sanitation of schools, industrial establishments, and other public and semipublic buildings; the sanitation of state and county fairs and other similar public gatherings; the sanitation of public and semipublic recreational areas; the sanitation of public rest rooms, trailer courts, hotels, tourist courts, and other establishments furnishing public sleeping accommodations; the review, approval, or disapproval of plans for construction, modification, or extension of equipment related to food-handling in food-handling establishments; the licensure of hospitals; and the control of such other factors, not assigned by law to another agency, as may be necessary to insure a safe and sanitary environment;

(d) The construction, installation, and alteration of any on-site sewage disposal system, except for a system with a surface discharge;

(e) Protection and improvement of the health of expectant mothers, infants, preschool, and school-age children;

(f) The practice of midwifery, including the issuance of permits to and supervision of women who practice midwifery; and

(g) Protection and improvement of the health of the people through better nutrition.

(2) The secretary shall have authority to establish by regulation a schedule of reasonable fees, not to exceed twenty dollars ($20) per inspector hour plus travel costs pursuant to state regulations for travel reimbursement, to cover the costs of inspections of manufacturers, retailers, and distributors of consumer products as defined in the Federal Consumer Product Safety Act, 15 U.S.C. secs. 2051 et seq.; 86 Stat. 1207 et seq. or amendments thereto, and of youth camps for the purpose of determining compliance with the provisions of this section and the regulations adopted by the secretary pursuant thereto. Fees collected by the secretary shall be deposited in the State Treasury and credited to a revolving fund account for the purpose of carrying out the provisions of this section. The balance of the account shall lapse to the general fund at the end of each biennium.

(3) Any administrative hearing conducted under authority of this section shall be conducted in accordance with KRS Chapter 13B.

Section 2. KRS 214.181 is amended to read as follows:

(1) The General Assembly finds that the use of tests designed to reveal a condition indicative of human immunodeficiency virus (HIV) infection can be a valuable tool in protecting the public health. The General Assembly finds that despite current scientific knowledge that zidovudine (AZT) prolongs the lives of acquired immunodeficiency syndrome victims, and may also be effective when introduced in the early stages of human immunodeficiency virus infection, many members of the public are deterred from seeking testing because they misunderstand the nature of the test or fear that test results will be disclosed without their consent. The General Assembly finds that the public health will be served by facilitating informed, voluntary, and confidential use of tests designed to detect human immunodeficiency virus infection.

(2) A person who has signed a general consent form for the performance of medical procedures and tests is not required to also sign or be presented with a specific consent form relating to medical procedures or tests to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any other causative

agent of acquired immunodeficiency syndrome that will be performed on the person during the time in which the general consent form is in effect. However, a general consent form shall instruct the patient that, as part of the medical procedures or tests, the patient may be tested for human immunodeficiency virus infection, hepatitis, or any other blood-borne infectious disease if a doctor orders the test for diagnostic purposes. Except as otherwise provided in subsection (5)(c) of this section, the results of a test or procedure to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any probable causative agent of acquired immunodeficiency syndrome performed under the authorization of a general consent form shall be used only for diagnostic or other purposes directly related to medical treatment.

(3) In any emergency situation where informed consent of the patient cannot reasonably be obtained before providing health-care services, there is no requirement that a health-care provider obtain a previous informed consent.

(4) The physician who orders the test pursuant to subsections (1) and (2) of this section, or the attending physician, shall be responsible for informing the patient of the results of the test if the test results are positive for human immunodeficiency virus infection. If the tests are positive, the physician shall also be responsible for either:

(a) Providing information and counseling to the patient concerning his infection or diagnosis and the known medical implications of such status or condition; or

(b) Referring the patient to another appropriate professional or health-care facility for the information and counseling.

(5) (a) No person in this state shall perform a test designed to identify the human immunodeficiency virus, or its antigen or antibody, without first obtaining the informed consent of the person upon whom the test is being performed, except as specified in subsections (2) and (3) of this section.

(b) No test result shall be determined as positive, and no positive test result shall be revealed to any person, without corroborating or confirmatory tests being conducted.

(c) No person who has obtained or has knowledge of a test result pursuant to this section shall disclose or be compelled to disclose the identity of any person upon whom a test is performed, or the results of the test in a manner which permits identification of the subject of the test, except to the following persons:

1. The subject of the test or the subject's legally authorized representative;
2. Any person designated in a legally effective release of the test results executed prior to or after the test by the subject of the test or the subject's legally authorized representative;
3. A physician, nurse, or other health-care personnel who has a legitimate need to know the test result in order to provide for his protection and to provide for the patient's health and welfare;
4. Health-care providers consulting between themselves or with health-care facilities to determine diagnosis and treatment;
5. The cabinet, in accordance with rules for reporting and controlling the spread of disease, as otherwise provided by state law;
6. A health facility or health-care provider which procures, processes, distributes, or uses:
    a. A human body part from a deceased person, with respect to medical information regarding that person; or
    b. Semen provided prior to the effective date of this section for the purpose of artificial insemination;
7. Health facility staff committees, for the purposes of conducting program monitoring, program evaluation, or service reviews;
8. Authorized medical or epidemiological researchers who shall not further disclose any identifying characteristics or information;
9. A person allowed access by a court order that is issued in compliance with the following provisions:
    a. No court of this state shall issue an order to permit access to a test for human immunodeficiency virus performed in a medical or public health setting to any person not authorized by this section or by KRS 214.420. A court may order an individual to be tested for human immunodeficiency virus only if the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for testing and disclosure against the privacy interest of the test subject and the public interest which may be disserved by disclosure which deters blood, organ, and semen donation and future human-immunodeficiency-virus-related testing or which may lead to discrimination. This paragraph shall not apply to blood bank donor records;
    b. Pleadings pertaining to disclosure of test results shall substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name shall be communicated confidentially, in documents not filed with the court;
    c. Before granting any order, the court shall provide the individual whose test result is in question with notice and a reasonable opportunity to participate in the proceedings if he or she is not already a

party;

d. Court proceedings as to disclosure of test results shall be conducted in camera, unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice;

e. Upon the issuance of an order to disclose test results, the court shall impose appropriate safeguards against unauthorized disclosure, which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.

No person to whom the results of a test have been disclosed shall disclose the test results to another person except as authorized by this subsection. When disclosure is made pursuant to this subsection, it shall be accompanied by a statement in writing that includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure shall be accompanied by oral notice and followed by a written notice within ten (10) days.

(6) (a) The Cabinet for Health Services shall establish a network of voluntary human immunodeficiency virus testing programs in every county in the state. These programs shall be conducted in each public health department established under the provisions of KRS Chapter 212. Additional programs may be contracted to other private providers to the extent that finances permit and local circumstances dictate.

(b) Each public health department shall have the ability to provide counseling and testing for the human immunodeficiency virus to each patient who receives services and shall offer the testing on a voluntary basis to each patient who requests the test.

(c) Each public health department shall provide a program of counseling and testing for human immunodeficiency virus infection, on an anonymous or confidential basis, dependent on the patient's desire. If the testing is performed on an anonymous basis, only the statistical information relating to a positive test for human immunodeficiency virus infection shall be reported to the cabinet. If the testing is performed on a confidential basis, the ***name***[~~unique code~~] and other information specified under KRS 214.645 shall be reported to the cabinet. The cabinet shall continue to provide for anonymous testing and counseling.

(d) The result of a serologic test conducted under the auspices of the cabinet shall not be used to determine if a person may be insured for disability, health, or life insurance or to screen or determine suitability for, or to discharge a person from, employment. Any person who violates the provisions of this subsection shall be guilty of a Class A misdemeanor.

(7) No public health department and no other private or public facility ***shall be*** established for the primary purpose of conducting a testing program for acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus status without first registering with the cabinet, complying with all other applicable provisions of state law, and meeting the following requirements:

(a) The program shall be directed by a person who has completed an educational course approved by the cabinet in the counseling of persons with acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus infection;

(b) The program shall have all medical care supervised by a physician licensed under the provisions of KRS Chapter 311;

(c) The program shall have all laboratory procedures performed in a laboratory licensed under the provisions of KRS Chapter 333;

(d) Informed consent shall be required prior to testing. Informed consent shall be preceded by an explanation of the test, including its purpose, potential uses, and limitations and the meaning of its results;

(e) The program, unless it is a blood donor center, shall provide pretest counseling on the meaning of a test for human immunodeficiency virus, including medical indications for the test; the possibility of false positive or false negative results; the potential need for confirmatory testing; the potential social, medical, and economic consequences of a positive test result; and the need to eliminate high-risk behavior;

(f) The program shall provide supplemental corroborative testing on all positive test results before the results of any positive test is provided to the patient;

(g) The program shall provide post-test counseling, in person, on the meaning of the test results; the possible need for additional testing; the social, medical, and economic consequences of a positive test result; and the need to eliminate behavior which might spread the disease to others;

(h) Each person providing post-test counseling to a patient with a positive test result shall receive specialized training, to be specified by regulation of the cabinet, about the special needs of persons with positive results, including recognition of possible suicidal behavior, and shall refer the patient for further health and social services as appropriate;

(i) When services are provided for a charge during pretest counseling, testing, supplemental testing, and post-test counseling, the program shall provide a complete list of all charges to the patient and the cabinet; and

(j) Nothing in this subsection shall be construed to require a facility licensed under KRS Chapter 333 or a person licensed under the provisions of KRS Chapters 311, 312, or 313 to register with the cabinet if he or she does not advertise or hold himself out to the public as conducting testing programs for human immunodeficiency virus infection or specializing in such testing.

(8) Any violation of this section by a licensed health-care provider shall be a ground for disciplinary action contained in the professional's respective licensing chapter.

(9) Except as provided in subsection (6)(d) of this section, insurers and others participating in activities related to the insurance application and underwriting process shall be exempt from this section.

(10) The cabinet shall develop program standards consistent with the provisions of this section for counseling and testing persons for the human immunodeficiency virus.

Section 3. KRS 214.625 is amended to read as follows:

(1) The General Assembly finds that the use of tests designed to reveal a condition indicative of human immunodeficiency virus (HIV) infection can be a valuable tool in protecting the public health. The General Assembly finds that despite current scientific knowledge that zidovudine (AZT) prolongs the lives of acquired immunodeficiency syndrome victims, and may also be effective when introduced in the early stages of human immunodeficiency virus infection, many members of the public are deterred from seeking testing because they misunderstand the nature of the test or fear that test results will be disclosed without their consent. The General Assembly finds that the public health will be served by facilitating informed, voluntary, and confidential use of tests designed to detect human immunodeficiency virus infection.

(2) A person who has signed a general consent form for the performance of medical procedures and tests is not required to also sign or be presented with a specific consent form relating to medical procedures or tests to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any other causative agent of acquired immunodeficiency syndrome that will be performed on the person during the time in which the general consent form is in effect. However, a general consent form shall instruct the patient that, as part of the medical procedures or tests, the patient may be tested for human immunodeficiency virus infection, hepatitis, or any other blood-borne infectious disease if a doctor orders the test for diagnostic purposes. Except as otherwise provided in subsection (5)(c) of this section, the results of a test or procedure to determine human immunodeficiency virus infection, antibodies to human immunodeficiency virus, or infection with any probable causative agent of acquired immunodeficiency syndrome performed under the authorization of a general consent form shall be used only for diagnostic or other purposes directly related to medical treatment.

(3) In any emergency situation where informed consent of the patient cannot reasonably be obtained before providing health-care services, there is no requirement that a health-care provider obtain a previous informed consent.

(4) The physician who orders the test pursuant to subsections (1) and (2) of this section, or the attending physician, shall be responsible for informing the patient of the results of the test if the test results are positive for human immunodeficiency virus infection. If the tests are positive, the physician shall also be responsible for either:

(a) Providing information and counseling to the patient concerning his infection or diagnosis and the known medical implications of such status or condition; or

(b) Referring the patient to another appropriate professional or health-care facility for the information and counseling.

(5) (a) No person in this state shall perform a test designed to identify the human immunodeficiency virus, or its antigen or antibody, without first obtaining the informed consent of the person upon whom the test is being performed, except as specified in subsections (2) and (3) of this section.

(b) No test result shall be determined as positive, and no positive test result shall be revealed to any person, without corroborating or confirmatory tests being conducted.

(c) No person who has obtained or has knowledge of a test result pursuant to this section shall disclose or be compelled to disclose the identity of any person upon whom a test is performed, or the results of the test in a manner which permits identification of the subject of the test, except to the following persons:

1. The subject of the test or the subject's legally authorized representative;

2. Any person designated in a legally effective release of the test results executed prior to or after the test by the subject of the test or the subject's legally authorized representative;

3. A physician, nurse, or other health-care personnel who has a legitimate need to know the test result in order to provide for his protection and to provide for the patient's health and welfare;

4. Health-care providers consulting between themselves or with health-care facilities to determine diagnosis and treatment;

5. The cabinet, in accordance with rules for reporting and controlling the spread of disease, as otherwise

provided by state law;

6. A health facility or health-care provider which procures, processes, distributes, or uses:
    a. A human body part from a deceased person, with respect to medical information regarding that person; or
    b. Semen provided prior to July 13, 1990, for the purpose of artificial insemination;
7. Health facility staff committees, for the purposes of conducting program monitoring, program evaluation, or service reviews;
8. Authorized medical or epidemiological researchers who shall not further disclose any identifying characteristics or information;
9. A parent, foster parent, or legal guardian of a minor; a crime victim; or a person specified in KRS 438.250;
10. A person allowed access by a court order which is issued in compliance with the following provisions:
    a. No court of this state shall issue an order to permit access to a test for human immunodeficiency virus performed in a medical or public health setting to any person not authorized by this section or by KRS 214.420. A court may order an individual to be tested for human immunodeficiency virus only if the person seeking the test results has demonstrated a compelling need for the test results which cannot be accommodated by other means. In assessing compelling need, the court shall weigh the need for testing and disclosure against the privacy interest of the test subject and the public interest which may be disserved by disclosure which deters blood, organ, and semen donation and future human immunodeficiency virus-related testing or which may lead to discrimination. This paragraph shall not apply to blood bank donor records;
    b. Pleadings pertaining to disclosure of test results shall substitute a pseudonym for the true name of the subject of the test. The disclosure to the parties of the subject's true name shall be communicated confidentially, in documents not filed with the court;
    c. Before granting any order, the court shall provide the individual whose test result is in question with notice and a reasonable opportunity to participate in the proceedings if he is not already a party;
    d. Court proceedings as to disclosure of test results shall be conducted in camera, unless the subject of the test agrees to a hearing in open court or unless the court determines that a public hearing is necessary to the public interest and the proper administration of justice; and
    e. Upon the issuance of an order to disclose test results, the court shall impose appropriate safeguards against unauthorized disclosure, which shall specify the persons who may have access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.

No person to whom the results of a test have been disclosed shall disclose the test results to another person except as authorized by this subsection. When disclosure is made pursuant to this subsection, it shall be accompanied by a statement in writing which includes the following or substantially similar language: "This information has been disclosed to you from records whose confidentiality is protected by state law. State law prohibits you from making any further disclosure of such information without the specific written consent of the person to whom such information pertains, or as otherwise permitted by state law. A general authorization for the release of medical or other information is NOT sufficient for this purpose." An oral disclosure shall be accompanied by oral notice and followed by a written notice within ten (10) days.

(6) (a) The Cabinet for Health Services shall establish a network of voluntary human immunodeficiency virus testing programs in every county in the state. These programs shall be conducted in each public health department established under the provisions of KRS Chapter 211. Additional programs may be contracted to other private providers to the extent that finances permit and local circumstances dictate.

(b) Each public health department shall have the ability to provide counseling and testing for the human immunodeficiency virus to each patient who receives services and shall offer the testing on a voluntary basis to each patient who requests the test.

(c) Each public health department shall provide a program of counseling and testing for human immunodeficiency virus infection, on an anonymous or confidential basis, dependent on the patient's desire. If the testing is performed on an anonymous basis, only the statistical information relating to a positive test for human immunodeficiency virus infection shall be reported to the cabinet. If the testing is performed on a confidential basis, the ***name***~~[unique code]~~ and other information specified in KRS 214.645 shall be reported to the cabinet. The cabinet shall continue to provide for anonymous testing and counseling.

(d) The result of a serologic test conducted under the auspices of the cabinet shall not be used to determine if a person may be insured for disability, health, or life insurance or to screen or determine suitability for, or to discharge a person from, employment. Any person who violates the provisions of this subsection shall be guilty of a Class A misdemeanor.

(7) No public health department and no other person in this state shall conduct or hold themselves out to the public as conducting a testing program for acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus status without first registering with the cabinet, complying with all other applicable provisions of state law, and meeting the following requirements:

(a) The program shall be directed by a person who has completed an educational course approved by the cabinet in the counseling of persons with acquired immunodeficiency syndrome, acquired immunodeficiency syndrome related complex, or human immunodeficiency virus infection;

(b) The program shall have all medical care supervised by a physician licensed under the provisions of KRS Chapter 311;

(c) The program shall have all laboratory procedures performed in a laboratory licensed under the provisions of KRS Chapter 333;

(d) Informed consent shall be required prior to testing. Informed consent shall be preceded by an explanation of the test, including its purpose, potential uses, and limitations and the meaning of its results;

(e) The program, unless it is a blood donor center, shall provide pretest counseling on the meaning of a test for human immunodeficiency virus, including medical indications for the test; the possibility of false positive or false negative results; the potential need for confirmatory testing; the potential social, medical, and economic consequences of a positive test result; and the need to eliminate high-risk behavior;

(f) The program shall provide supplemental corroborative testing on all positive test results before the results of any positive test is provided to the patient;

(g) The program shall provide post-test counseling, in person, on the meaning of the test results; the possible need for additional testing; the social, medical, and economic consequences of a positive test result; and the need to eliminate behavior which might spread the disease to others;

(h) Each person providing post-test counseling to a patient with a positive test result shall receive specialized training, to be specified by regulation of the cabinet, about the special needs of persons with positive results, including recognition of possible suicidal behavior, and shall refer the patient for further health and social services as appropriate;

(i) When services are provided for a charge during pretest counseling, testing, supplemental testing, and post-test counseling, the program shall provide a complete list of all charges to the patient and the cabinet; and

(j) Nothing in this subsection shall be construed to require a facility licensed under KRS Chapter 333 or a person licensed under the provisions of KRS Chapters 311, 312, or 313 to register with the cabinet if he or she does not advertise or hold himself or herself out to the public as conducting testing programs for human immunodeficiency virus infection or specializing in such testing.

(8) Any violation of this section by a licensed health-care provider shall be a ground for disciplinary action contained in the professional's respective licensing chapter.

(9) Except as provided in subsection (6)(d) of this section and KRS 304.12-013, insurers and others participating in activities related to the insurance application and underwriting process shall be exempt from this section.

(10) The cabinet shall develop program standards consistent with the provisions of this section for counseling and testing persons for the human immunodeficiency virus.

Section 4. KRS 214.645 is amended to read as follows:

(1) The Cabinet for Health Services shall establish a system for reporting, by the use of ***the person's name***[~~a unique code~~], of all persons who test positive for the human immunodeficiency virus (HIV) infection. The reporting shall include the data including, but not limited to, CD4 count and viral load, and other information that are necessary to comply with the confidentiality and reporting requirements of the most recent edition of the Centers for Disease Control and Prevention's (CDC) Guidelines for National Human Immunodeficiency Virus Case Surveillance. As recommended by the CDC, anonymous testing shall remain as an alternative. If less restrictive data identifying requirements are identified by the CDC, the cabinet shall evaluate the new requirements for implementation.

(2) The reporting system established under subsection (1) of this section shall:

(a) Use ***the same confidential name-based approach for HIV surveillance that is used for AIDS surveillance***[~~a unique code that consists of any combination of initials, the last four (4) numbers of the Social Security number, birth date, or other information to be determined~~] by the cabinet;

(b) Attempt to identify all modes of HIV transmission, unusual clinical or virologic manifestations, and other cases of public health importance;

(c) Require collection of the ***names***[~~unique code~~] and data from all private and public sources of HIV-related testing and care services; and

(d) Use reporting methods that match the CDC's standards for completeness, timeliness, and accuracy, and follow up, as necessary, with the health care provider making the report to verify completeness, timeliness, and accuracy.

(3) Authorized surveillance staff designated by the cabinet shall:

(a) Match the information from the reporting system to other public health databases, wherever possible, to limit duplication and to better quantify the extent of HIV infection in the Commonwealth;

(b) Conduct a biennial assessment of the HIV and AIDS reporting systems, insure that the assessment is available for review by the public and any state or federal agency, and forward a copy of the assessment to the Legislative Research Commission and the Interim Joint Committee on Health and Welfare;

(c) Document the security policies and procedures and insure their availability for review by the public or any state or federal agency;

(d) Minimize storage and retention of unnecessary paper or electronic reports and insure that related policies are consistent with CDC technical guidelines;

(e) Assure that electronic transfer of data is protected by encryption during transfer;

(f) Provide that records be stored in a physically secluded area and protected by coded passwords and computer encryption;

(g) Restrict access to data a minimum number of authorized surveillance staff who are designated by a responsible authorizing official, who have been trained in confidentiality procedures, and who are aware of penalties for unauthorized disclosure of surveillance information;

(h) Require that any other public health program that receives data has appropriate security and confidentiality protections and penalties;

(i) Restrict use of data, from which identifying information has been removed, to cabinet-approved research, and require all persons with this use to sign confidentiality statements;

(j) Prohibit release of any *names*[~~unique codes~~] or any other identifying information that may have been received in a report to any person or organization, whether public or private, except in compliance with federal law or consultations with other state surveillance programs and reporting sources. Under no circumstances shall a *name*[~~unique code~~] or any identifying information be reported to the CDC; and

(k) Immediately investigate any report of breach of reporting, surveillance, or confidentiality policy, report the breach to the CDC, develop recommendations for improvements in security measure, and take appropriate disciplinary action for any documented breach.

(4) The cabinet shall require any physician or medical laboratory that receives a report of a positive test for the human immunodeficiency virus to report that information by reference to the *name*[~~unique code~~] in accordance with the procedure for establishing *name reporting required*[~~the unique code established~~] by the cabinet in an administrative regulation.[~~ The physician and medical laboratory shall maintain a log with the name of the patient who tested positive and the unique identifier assigned.~~]

HB 105, AN ACT relating to the protection of adults.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 209.010 is amended to read as follows:

(1) The purpose of this chapter is:

(a)[~~(1)~~] To provide for the protection of *vulnerable* adults who may be suffering from abuse, neglect, or exploitation *and who request or do not refuse protective services*, and to bring said cases under the purview of the Circuit or District Court.

(b)[~~(2)~~] To provide *a mechanism to report abuse, neglect, or exploitation of a vulnerable adult*[~~that any person who becomes aware of such cases shall report them to a representative of the cabinet~~], thereby causing the protective services of the state to be brought to bear in an effort to protect the health and welfare of these adults in need of protective services and to prevent abuse, neglect, or exploitation.

(2) The General Assembly finds and declares as follows:

(a) Some adults are unable to manage their own affairs or to protect themselves from abuse, neglect, or exploitation and these persons often cannot find others who are able or willing to render assistance;

(b) This chapter creates a system of protective services in which the resources of the Commonwealth are coordinated to fill this need and to assure the availability of services to all vulnerable adults;

(c) Implementing agencies shall utilize the fewest possible restrictions on the exercise of personal and civil rights, consistent with the person's need for services, to ensure that any protective placement is necessary and is in the most integrated setting appropriate to the individual's treatment needs if that placement can be reasonably accommodated, taking into account the resources available to the state; and

(d) Due process shall be followed when imposing any restrictions on the vulnerable adult's exercise of personal and civil rights.

Section 2. KRS 209.020 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) *"Abuse" means the willful infliction of injury, unreasonable confinement, intimidation, or punishment resulting in physical harm or pain, including sexual injury or emotional injury of a vulnerable adult;*

(2) "Access to records" means that any representative of an authorized agency shall be allowed access, subject to other applicable law, to the medical, mental health, and financial records of the vulnerable adult that are in the possession of any individual, hospital, firm, financial institution, corporation, or other facility, if necessary to perform the authorized agency's duties as required by law;

(3) "Authorized agency" means:

(a) The Cabinet for Families and Children;

(b) A local law enforcement agency or the Kentucky State Police;

(c) The office of the Commonwealth or county Attorney;

(d) The Medicaid Fraud and Abuse Control Unit, Office of the Attorney General, if a report relates to its duties as set forth in 42 U.S.C. 1396b(q);

(e) The Office of Inspector General, Cabinet for Health Services, if a report relates to abuse, neglect, or exploitation of a vulnerable adult who resides in a facility or agency licensed by the Cabinet for Health Services;

(f) The Office of the Long Term Care Ombudsman, Cabinet for Health Services, if a report relates to its duties as defined in 42 U.S.C. 3058g;

(g) The Office of Aging Services, Cabinet for Health Services, if a report relates to abuse, neglect, or exploitation of a vulnerable adult who resides in a certified assisted living facility;

(h) The Department for Public Health, Cabinet for Health Services, if a report relates to abuse, neglect, or exploitation of a vulnerable adult who resides in a registered boarding home;

(i) The Department for Mental Health and Mental Retardation Services, Cabinet for Health Services, if a report relates to abuse, neglect, or exploitation of a vulnerable adult who resides in a certified Supports for Community Living Program;

(j) The Kentucky Board of Nursing, if a report relates to abuse, neglect, or exploitation of a vulnerable adult by a licensed nurse or nurse aide; or

(k) Any other agency that is responsible for regulating an individual, facility, or program that is licensed, certified, registered, or otherwise regulated;

(4) "Caretaker" means an individual or institution who has been entrusted with or who has the responsibility for the care of the vulnerable adult as a result of family relationship, or who has assumed the responsibility for the care of the vulnerable adult voluntarily, or by contract, employment, assignment, legal duty, or agreement;

(5) "Court" means the Circuit Court or Family Court, or the District Court if no judge of that Circuit Court or Family Court is present in the county;

(6) "Deception" means, but the term is not limited to:

(a) Creating or reinforcing a false impression, including false impressions as to law, value, intention, or other state of mind;

(b) Preventing another from acquiring information that would affect judgment of a transaction; or

(c) Failing to correct a false impression that the deceiver previously created or reinforced or that the deceiver knows to be influencing another to whom the person stands in a fiduciary or confidential relationship;

(7) "Emergency" means that a vulnerable adult is living in conditions that present a substantial risk of death or immediate and serious physical or mental harm to himself or others;

(8) "Emergency protective services" are protective services furnished to a vulnerable adult in an emergency;

(9) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a vulnerable adult as evidenced by a substantial and observable impairment in the vulnerable adult's ability to function within a normal range of performance and behavior with regard to age, development, culture, and environment, as documented by a qualified mental health professional;

(10) "Exploitation" means obtaining or using another person's resources, including but not limited to funds, assets, or property, by deception, intimidation, or similar means with the intent to deprive the person of those resources;

(11) "Intimidation" means the communication by word or act to another person that the person will be deprived of food, nutrition, clothing, shelter, supervision, medicine, medical services or supplies, or money or financial support, or that the person will suffer physical violence, or will be estranged from family members;

(12) "Investigation" means the review of a report made under subsection (2) or (3) of Section 4 of this Act and any follow-up determination of whether an alleged victim is a vulnerable adult. The term may include the interview of the

individual who has been reported as having been abused, neglected, or exploited, and of any other persons who may possess information relevant to the individual's condition or situation, including a coroner or doctor;

(13) "Neglect" means:

(a) Failure by a caretaker to provide goods and services necessary to avoid physical harm, emotional injury, or mental illness; or

(b) A situation in which a vulnerable adult is unable or unwilling to perform or obtain for himself the goods or services that are necessary to maintain his health or welfare;

(14) "Protective placement" means the transfer of a vulnerable adult from his present living arrangement to another;

(15) "Protective services" means services that are undertaken with or on behalf of a vulnerable adult who either does not refuse the services or has requested them. These services may include but are not limited to investigating complaints of possible abuse, neglect, or exploitation to ascertain whether the situation and condition of the vulnerable adult warrants further action; providing social services aimed at preventing and remedying abuse, neglect, and exploitation; assisting in the relocation of a vulnerable adult who is in need of protective services to protect him from abuse, neglect, or exploitation; obtaining legal redress, including but not limited to injunctive relief, on behalf of a vulnerable adult to protect him from abuse, neglect, or exploitation; or sharing information gathered from an investigation with a local law enforcement agency, the Kentucky State Police, or any other authorized agency; and

(16) "Vulnerable adult" means:

(a) A person eighteen (18) years of age or older, who because of mental or physical impairment is unable, without assistance from others, to manage his own resources, perform activities of daily living, or protect himself from abuse, neglect, or exploitation, and who is in need of protective services; or

(b) A person without regard to age who is the victim of abuse or neglect inflicted by a spouse[~~"Secretary" means the secretary of the Cabinet for Families and Children;~~

~~(2) "Cabinet" means the Cabinet for Families and Children;~~

~~(3) "Department" means the Department for Community Based Services of the Cabinet for Families and Children;~~

~~(4) "Adult" means:~~

~~(a) A person eighteen (18) years of age or older, who because of mental or physical dysfunctioning, is unable to manage his own resources or carry out the activity of daily living or protect himself from neglect, or a hazardous or abusive situation without assistance from others, and who may be in need of protective services; or~~

~~(b) A person without regard to age who is the victim of abuse and neglect inflicted by a spouse;~~

~~(5) "Protective services" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused, neglected, or exploited. These services may include, but are not limited to conducting investigations of complaints of possible abuse, neglect, or exploitation to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action; social services aimed at preventing and remedying abuse, neglect, and exploitation; and services directed toward seeking legal determination of whether or not the adult in need of protective services has been abused, neglected, or exploited and to ensure that he obtains suitable care in or out of his home;~~

~~(6) "Caretaker" means an individual or institution who has the responsibility for the care of the adult as a result of family relationship, or who has assumed the responsibility for the care of the adult person voluntarily, or by contract, or agreement;~~

~~(7) "Abuse" means the infliction of physical pain, mental injury, or injury of an adult;~~

~~(8) "Exploitation" means the improper use of an adult or an adult's resources by a caretaker or other person for the profit or advantage of the caretaker or other person;~~

~~(9) "Investigation" shall include, but is not limited to, a personal interview with the individual reported to be abused, neglected, or exploited. When abuse, or neglect is allegedly the cause of death, a coroner's or doctor's report shall be examined as part of the investigation;~~

~~(10) "Emergency" means that an adult is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others;~~

~~(11) "Emergency protective services" are protective services furnished an adult in an emergency;~~

~~(12) "Protective placement" means the transfer of an adult from his present living arrangement to another;~~

~~(13) "Court" means the Circuit Court or the District Court if no judge of that Circuit Court is present in the county;~~

~~(14) "Access to records" means that any representative of the Cabinet for Families and Children actively involved in the conduct of an abuse, neglect, or exploitation investigation under this chapter shall be allowed access to the medical, mental, health, and financial records of the adult that are in the possession of any individual, hospital, firm, corporation or other facility, if necessary to complete the investigation mandated in this chapter; and~~

~~(15) "Neglect" means a situation in which an adult is unable to perform or obtain for himself the services which are necessary to maintain his health or welfare, or the deprivation of services by a caretaker which are necessary to maintain the health and welfare of an adult, or a situation in which a person deprives his spouse of reasonable services to maintain health and~~

~~welfare~~].

SECTION 3. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

The secretary to the Cabinet for Families and Children may promulgate administrative regulations in accordance with KRS Chapter 13A to effect the purposes of this chapter. The secretary may take necessary action and may offer or cause to be offered protective services for safeguarding the welfare of a vulnerable adult who has experienced abuse, neglect, or exploitation. While the cabinet shall continue to have primary responsibility for investigation and the provision of protective services under this chapter, nothing in this chapter shall restrict the authority of another authorized agency to take action pursuant to its statutory authority.

Section 4. KRS 209.030 is amended to read as follows:

(1)[~~ The secretary may, within his discretion, adopt such rules, regulations, procedures, guidelines, or any other expressions of policy necessary to effect the purpose of this chapter insofar as such action is reasonably calculated to serve the public interest. The secretary may take necessary action and may offer or cause to be offered protective services toward safeguarding the welfare of an adult who has experienced abuse or neglect, inflicted or caused by a spouse.~~

~~(2)~~] Any person, including[~~,~~] but not limited to ***a***[~~,~~] physician, law enforcement officer, nurse, social worker,[~~ cabinet~~] personnel ***of the Cabinet for Families and Children and the Cabinet for Health Services***, coroner, medical examiner, alternate care facility employee, or caretaker, having reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation, shall ***without delay*** report or cause reports to be made in accordance with the provisions of this chapter. Death of the adult does not relieve one of the responsibility for reporting the circumstances surrounding the death.

(2) ***(a)***[~~(3)~~] ***Any person who knows or has reasonable cause to believe that a vulnerable adult is abused, neglected, or exploited shall without delay cause*** an oral or written report ***to***[~~shall~~] be made***, by telephone or otherwise,***[~~ immediately~~] to the ***Cabinet for Families and Children***[~~cabinet upon knowledge of the occurrence of suspected abuse, neglect, or exploitation of an adult~~].

(b) Any person making[~~ such~~] a report ***under paragraph (a) of this subsection*** shall provide the following information, if known:

1. The name and address of the ***vulnerable*** adult, or of any other person responsible for his care;

2. The age of the ***vulnerable*** adult;

3. The nature and extent of the abuse, neglect, or exploitation, including ***but not limited to*** any evidence of previous abuse, neglect, or exploitation;

4. The identity of the perpetrator, if known;

5. The identity of the complainant, if possible; and

6. Any other information that the person believes might be helpful in establishing the cause of abuse, neglect, or exploitation.

(3)[~~(4)~~] Upon receipt of the report, the Cabinet ***for Families and Children*** shall take the following action as soon as ***practicable***[~~practical~~]:

(a) Notify the appropriate ***local*** law enforcement agency ***or the Kentucky State Police***;

(b) ***Notify each appropriate authorized agency or any other appropriate entity that has a legitimate interest in the report;***

(c) Initiate an investigation of the complaint; and

(d)[~~(c)~~]Make a written report of the initial findings together with a recommendation for further action, if indicated.

(4)[~~(5)~~] ***Upon request, any agency, institution, or facility providing services to vulnerable adults shall cooperate, assist, and provide information that will enable an authorized agency to fulfill its responsibilities under this chapter.***

(5) Any representative of ***an authorized agency***[~~the cabinet~~] may enter any health facility or health service licensed by the Cabinet ***for Health Services*** at any reasonable time to carry out ***its***[~~the cabinet's~~] responsibilities under this chapter. Any representative of ***an authorized agency***[~~the cabinet~~] actively involved in the conduct of an abuse, neglect, or exploitation investigation under this chapter shall also be allowed access to the ***financial,*** mental ***health,*** and physical health records of the ***vulnerable*** adult ***that***[~~which~~] are in the possession of any individual, ***financial institution,*** hospital, or other facility if necessary to complete the investigation mandated by this chapter.

(6) Any representative of ***an authorized agency***[~~the cabinet~~] may***,*** with consent of the ***vulnerable*** adult or caretaker***,*** enter any private premises where ***a vulnerable***[~~any~~] adult alleged to be abused, neglected, or exploited is found in order to investigate the need for protective services for the purpose of carrying out the provisions of this chapter. If the ***vulnerable*** adult or caretaker does not consent to the investigation, a search warrant may ***be issued***[~~issue~~] upon a showing of probable cause that ***a vulnerable***[~~an~~] adult is being abused, neglected, or exploited, to enable a representative of ***an authorized agency***[~~the cabinet~~] to proceed with the investigation.

(7) If ***the investigation indicates***[~~a determination has been made~~] that protective services are necessary[~~ when indicated by the investigation~~], the Cabinet ***for Families and Children*** shall provide such services within budgetary limitations, except in such cases where ***a vulnerable***[~~an~~] adult chooses to refuse such services.

(8) *If*[~~In the event~~] the *vulnerable* adult *chooses*[~~elects~~] to accept the protective services to be provided by the Cabinet *for Families and Children*, the caretaker shall not interfere with the *cabinet's delivery of*[~~cabinet when rendering~~] such services.

Section 5. KRS 209.040 is amended to read as follows:

Any court may*,* upon proper application by *an authorized agency or a private citizen,*[~~the cabinet~~] issue a restraining order or other injunctive relief to prohibit any violation of this chapter, regardless of the existence of any other remedy at law.

Section 6. KRS 209.050 is amended to read as follows:

(1) Anyone acting upon reasonable cause in the making of any report or investigation or participating in the filing of a petition to obtain injunctive relief or emergency protective services for *a vulnerable*[~~an~~] adult pursuant to this chapter, including representatives of *an authorized agency*[~~the cabinet~~] in the reasonable performance of their duties in good faith, and within the scope of their authority, shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or investigation and such immunity shall apply to those who render protective services in good faith pursuant either to the consent of the *vulnerable* adult or to court order.

(2) Nothing in this chapter shall be construed to impose civil liability on a person who makes a good faith effort for which the person is not compensated or does not expect compensation to assist a vulnerable adult, if the effort fails or a vulnerable adult is harmed in any way through no fault of the person.

Section 7. KRS 209.060 is amended to read as follows:

Only the attorney-client[~~Neither the psychiatrist-patient privilege nor the husband-wife~~] privilege shall be a ground for excluding evidence regarding the abuse, neglect, or exploitation of *a vulnerable*[~~an~~] adult or the cause thereof in any judicial proceeding resulting from a report pursuant to this chapter.

SECTION 8. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

(1) The purpose of this section is to define the role of each authorized agency that provides services to vulnerable adults.

(2) Upon receipt of a report of alleged abuse, neglect, or exploitation of a vulnerable adult, the Cabinet for Families and Children shall:

(a) Offer protective services to each victim of abuse, neglect, or exploitation;

(b) Notify the appropriate local law enforcement agency or the Kentucky State Police;

(c) Notify the Commonwealth's attorney or county attorney;

(d) Notify each additional authorized agency or entity that has a legitimate interest in the allegation;

(e) Investigate the allegation and determine whether the vulnerable adult was abused, neglected, or exploited; and

(f) Report the cabinet's investigative findings to the appropriate local law enforcement agency or Kentucky State Police, Commonwealth's attorney or county attorney, and each additional authorized agency or entity that has a legitimate interest in the allegation.

(3) (a) Upon receipt of a report of alleged abuse, neglect, or exploitation of a vulnerable adult, or upon notification from the Cabinet for Families and Children that a vulnerable adult has been identified as a victim of abuse, neglect, or exploitation, the local law enforcement agency or the Kentucky State Police shall review as soon as practicable and conduct as appropriate a criminal investigation, identify any person or persons suspected of abuse, neglect, or exploitation, and file charges as appropriate. The Commonwealth's attorney or county attorney shall as soon as practicable prosecute, in his discretion, each case in which a local law enforcement agency or the Kentucky State Police has identified a suspect of abuse, neglect, or exploitation.

(b) By November 1 of each year, each local law enforcement agency and the Kentucky State Police shall prepare a report that provides the final disposition or status of each case referred under this subsection during the preceding year, and shall submit the report to the Cabinet for Families and Children. By December 1 of each year, the cabinet shall provide a report to the Legislative Research Commission that summarizes the reports received under this paragraph. No identifying information about individuals shall be submitted to the Legislative Research Commission in this report.

(4) For allegations of abuse, neglect, or exploitation in Medicaid facilities and any other facilities as defined in 42 U.S.C. sec. 1396b(q), the Medicaid Fraud and Abuse Control Unit, Office of Attorney General, shall as soon as practicable:

(a) Conduct a criminal investigation;

(b) Prosecute, in its discretion, or refer for prosecution, as set out in 42 U.S.C. sec. 1396b(q), these cases of abuse, neglect, or exploitation.

(5) The Cabinet for Families and Children shall forward its investigation report of an allegation of abuse, neglect, or exploitation of an adult residing in a licensed health care facility to the Office of Inspector General, Cabinet for Health Services, which shall determine within ninety (90) days whether the facility complied with regulatory requirements. A report of the findings for each allegation shall be generated by the office and maintained in its internal case file. If more than ninety (90) days are needed to complete the determination, a written report shall be generated by the office

that details the reasons for the delay. This report shall be placed in the office's internal case file.

(6) Upon notification that the Cabinet for Families and Children has substantiated that abuse, neglect, or exploitation of a resident occurred in a suspected unlicensed or illegal health facility as defined in KRS 216B.015(12), the Office of Inspector General, Cabinet for Health Services shall determine within ninety (90) days whether the facility operated illegally or without a license and, if so, take all necessary steps to cease illegal operation. A report of the findings for each allegation shall be generated by the office and maintained in its internal case file. If a determination is made to take no action upon the report, or if, upon conclusion of the administrative process or judicial review, the office does not uphold the cabinet's determination that the vulnerable adult was abused, neglected, or exploited, the cabinet shall amend its investigative findings to include the final determination. If more than ninety (90) days are needed to complete the determination, a written report shall be generated by the office that details the reasons for the delay. This report shall be placed in the office's internal case file.

(7) The Cabinet for Families and Children shall forward its investigation report of an allegation of abuse, neglect, or exploitation of an adult residing in a Supports for Community Living facility to the Division of Mental Retardation, Department for Mental Health and Mental Retardation, Cabinet for Health Services, which shall determine within ninety (90) days whether the facility complied with regulatory requirements and whether the adult was abused, neglected, or exploited. A report of the findings for each allegation shall be generated by the division and maintained in its internal case file. If more than ninety (90) days are needed to complete the determination, a written status report shall be generated that details the reasons for the delay. This report shall be placed in the division's internal case file.

(8) The Cabinet for Families and Children shall forward its investigation report of an allegation of abuse, neglect, or exploitation of an adult residing in a certified or registered facility or program to the agency that has regulatory authority over the facility or program, which shall determine within ninety (90) days whether the facility or program complied with regulatory requirements and take such action as may be authorized by law. A report of the findings for each allegation shall be generated by the agency and maintained in its internal case file. If more than ninety (90) days are needed to complete the determination, a written status report shall be generated that details the reasons for the delay. This report shall be placed in the agency's internal case file.

(9) Upon notification from the Cabinet for Families and Children that a licensed, registered, or certified professional staff person had access to a victim during the time that abuse, neglect, or exploitation of a vulnerable adult occurred, the agency responsible for licensing, registering, or certifying the individual shall take such action as may be authorized by law within ninety (90) days. A report of the findings for each allegation shall be generated by the agency and maintained in its internal case file. If more than ninety (90) days are needed to complete the determination, a written status report shall be generated that details the reasons for the delay. This report shall be placed in the agency's internal case file.

(10) Upon receipt of an allegation of abuse, neglect, or exploitation, the Long Term Care Ombudsman shall act in accordance with the requirements set forth in 42 U.S.C. sec. 3058g(a)(3) and the Federal Older Americans Act. A report of the findings for each allegation shall be generated by the Long Term Care Ombudsman and maintained as part of the its internal case file. If more than ninety (90) days are needed to complete the determination, a written status report shall be generated that details the reasons for the delay. This report shall be placed in the Long Term Care Ombudsman's internal case file.

(11) All authorized agencies shall maintain records as to the allegations or investigative reports relating to abuse, neglect, or exploitation that are sent by the Cabinet for Families and Children or other authorized agencies. All authorized agencies shall also maintain internal records of any dispositions made internally relating to the allegations or investigative reports received. This information shall be available for sharing, as authorized by law, with other authorized agencies.

Section 9. KRS 209.100 is amended to read as follows:

(1) If ***a vulnerable***[~~an~~] adult lacks the capacity to consent ***or refuse*** to receive protective services in an emergency, ***protective***[~~these~~] services may be ordered by a court on an emergency basis through an order pursuant to KRS 209.110, provided that:

- (a) The ***vulnerable*** adult is in a state of abuse***,***[~~ or~~] neglect***, or exploitation*** and an emergency exists;
- (b) The ***vulnerable*** adult is in need of protective services; ***and***
- (c)[~~ The adult lacks the capacity to consent and refuses to consent to such services; and~~
- ~~(d)~~] No person authorized by law or court order to give consent for the ***vulnerable*** adult is available to consent to emergency protective services or such person refuses to give consent.

(2) In ordering emergency protective services, the court shall authorize only that intervention ***that***[~~which~~] it finds to be the least restrictive of the individual's liberty and rights while consistent with his welfare and safety. ***If a protective placement is ordered, the court shall authorize only that the individual be placed in the most integrated setting appropriate to his treatment needs if that placement can be reasonably accommodated, taking into account the resources available to the state.***

Section 10. KRS 209.110 is amended to read as follows:

(1) A petition by the Cabinet ***for Families and Children*** for emergency protective services shall be verified by an authorized representative of the cabinet and shall set forth the name, age, and address of the ***vulnerable*** adult in need of protective services; the nature of the disability of the ***vulnerable*** adult, if determinable; the proposed protective services; the petitioner's reasonable belief, together with the facts supportive thereof, as to the existence of the facts, and the facts showing the petitioner's attempts to obtain the ***vulnerable*** adult's consent to the services and the outcomes of such attempts. The petition and all subsequent court documents shall be entitled: "In the interest of-----, ***a vulnerable***[~~an~~] adult in need of protective services." The petition shall be filed in the court of the ***vulnerable*** adult's residence, or if filed pursuant to KRS 209.130, the court of the county in which the ***vulnerable*** adult is physically located.

(2) When a petition for emergency protective services is filed, the court or the clerk shall immediately appoint a guardian ad litem to represent the interest of the ***vulnerable*** adult. The duties of a guardian ad litem representing ***a vulnerable***[~~an~~] adult for whom a petition for emergency protective services has been filed shall include personally interviewing the ***vulnerable*** adult, counseling with the ***vulnerable*** adult with respect to this chapter, informing him of his rights and providing competent representation at all proceedings, and such other duties as the court may order.

(3) Following the filing of a petition, a summons shall be issued and served with a copy of the petition, and notice of the time, date and location of the hearing to be held on the petition. Service shall be made upon the ***vulnerable*** adult and his guardian or, if none, his caretaker. Should the ***vulnerable*** adult have no guardian or caretaker, service shall be made upon the ***vulnerable*** adult's guardian ad litem. Notice of the hearing shall be given to the ***vulnerable*** adult's spouse, or, if none, to his adult children or next of kin, unless the court is satisfied that notification would be ***impracticable***[~~impractical~~]. Service ***for the vulnerable adult shall not be made upon any person who is believed to have perpetrated the abuse, neglect, or exploitation. Service*** of the petition shall be made at least three (3) calendar days prior to the hearing for emergency protective services.

(4) The hearing on the petition for an emergency order for protective services shall be heard under the following conditions:

(a) The hearing on the petition, in the interests of expedition, may be held in any county within the judicial district or circuit served by the court. The court shall give priority to the holdings of the hearings pursuant to petitions filed under this chapter;

(b) The ***vulnerable*** adult or his representative may present evidence and cross-examine witnesses; and

(c) The ***vulnerable*** adult or his representative may petition the court to have any order which is entered pursuant to this chapter[~~,~~] set aside or modified for good cause.

(5) Where protective services are rendered on the basis of an order pursuant to this section, the cabinet shall submit a report to the court describing the circumstances including the name, place, date, and nature of the services. Such report shall be made at least once or on a monthly basis if protective services are provided the ***vulnerable*** adult for a period of longer than one (1) month.

(6) The fee of the guardian ad litem shall be paid by the Cabinet ***for Families and Children*** not to exceed three hundred dollars ($300). This fee is not to be paid to attorneys employed by government funded legal services programs.

Section 11. KRS 209.120 is amended to read as follows:

(1) Upon petition by the Cabinet ***for Families and Children,*** a court may issue an order authorizing the provision of emergency protective services to ***a vulnerable***[~~an~~] adult after a hearing and upon a finding based on a preponderance of the evidence that:

(a) The ***vulnerable*** adult is in a state of abuse ***or***[~~,~~] neglect[~~, or exploitation~~] and is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others***, is being exploited, or is at risk of serious financial loss***;

(b) The ***vulnerable*** adult is in need of protective services;

(c) The ***vulnerable*** adult lacks the capacity to consent to such services; and

(d) No person authorized by law or court order to give consent for the ***vulnerable*** adult is available to consent to protective services or such person refuses to give consent.

(2) In issuing an emergency order***,*** the court shall adhere to the following limitations:

(a) Only such protective services, including medical and surgical care and protective placement, as are necessary to remove the conditions creating the emergency shall be covered, and the court shall specifically designate the approved services in its order. Such designation of approved services shall be deemed to be the consent of the court authorizing the provision of such services.

(b) Protective services authorized by the court shall not include hospitalization or protective placement unless the court specifically finds such action is necessary and gives specific approval for such action in its order. ***If a protective placement is ordered, the court shall authorize only that the individual be placed in the most integrated setting appropriate to his treatment needs if that placement can be reasonably accommodated taking into account the resources available to the state.***

(c) The issuance of an emergency order shall not deprive the ***vulnerable*** adult of any rights except to the extent validly provided for in the order.

(d) To implement an order, the court may authorize forcible entry of the premises of the ***vulnerable*** adult for the purpose of rendering protective services or transporting the ***vulnerable*** adult to another location for the provision of such services. Authorized forcible entry shall be accomplished by a peace officer accompanied by a representative of the Cabinet ***for Families and Children***.

(3) If the court finds, pursuant to a hearing, that the ***vulnerable*** adult is in need of protective services, and should that ***vulnerable*** adult have a guardian who has been derelict in providing for the welfare of the ***vulnerable*** adult, the court shall have the discretion to remove the guardian and appoint another guardian, if an individual is available, willing, and able to function as guardian; such removal and appointment shall be in compliance with the provisions of KRS Chapter 387. It is not necessary for the court to find a guardian has been derelict as a requirement for the issuance of an order for protective services.

(4) If the court finds that protective services are no longer needed by the ***vulnerable*** adult, the court shall order the emergency protective services to terminate.

Section 12. KRS 209.130 is amended to read as follows:

(1) When, from an affidavit or sworn testimony of an authorized representative of the Cabinet ***for Families and Children***, it appears probable that ***a vulnerable***[~~an~~] adult will suffer immediate and irreparable physical injury or death if protective services are not immediately provided, and it appears that the ***vulnerable*** adult is incapable of giving consent, the court may assume jurisdiction and issue an ex parte order providing that certain specific protective services be provided the ***vulnerable*** adult. The court shall not authorize such protective services except those specifically designed to remove the ***vulnerable*** adult from conditions of immediate and irreparable physical injury or death. A copy of the order shall be served upon the ***vulnerable*** adult and his guardian, or if none, his caretaker. ***Service for the vulnerable adult shall not be made upon the person who is believed to have perpetrated the abuse, neglect, or exploitation.***

(2) To implement an ex parte order, the court may authorize forcible entry of the premises of the ***vulnerable*** adult for the purpose of rendering protective services or transporting the ***vulnerable*** adult to another location for the provision of such services. Authorized forcible entry shall be accomplished by a peace officer accompanied by a representative of the Cabinet ***for Families and Children***.

(3) Upon the issuance of an ex parte order, the Cabinet ***for Families and Children shall***[~~must~~] file a petition as soon as possible. A hearing ***shall***[~~must~~] be held within seventy-two (72) hours, exclusive of Saturdays and Sundays, from the issuance of an ex parte order.

Section 13. KRS 209.140 is amended to read as follows:

All information obtained by ***an authorized agency***[~~the department staff~~] or its delegated representative, as a result of an investigation made pursuant to this chapter, shall not be divulged to anyone except:

(1) Persons suspected of abuse,[~~ or~~] neglect, or exploitation, provided that in such cases names of informants may be withheld, unless ordered by the court;

(2) Persons within ***an authorized agency or its delegated representative***[~~the department or cabinet~~] with a legitimate interest or responsibility related to the case;

(3) Other medical, psychological, or social service agencies, ***financial institutions,*** or law enforcement agencies that have a legitimate interest in the case;

(4) Cases where a court orders release of such information;[~~ and~~]

(5) The ***allegedly***[~~alleged~~] abused,[~~ or~~] neglected, or exploited person***; and***

(6) If the vulnerable adult is deceased, the executor or administrator of his estate.

Section 14. KRS 209.150 is amended to read as follows:

The following persons shall have standing to file a criminal complaint:

(1) Any person with personal knowledge of the abuse, neglect, or exploitation of a vulnerable adult by the vulnerable adult's caretaker;

(2) Any vulnerable adult who has been abused, neglected, or exploited; or

(3) Any representative of ***an authorized agency***[~~the cabinet~~] acting officially in that capacity[~~, any person with personal knowledge of the abuse or neglect, or exploitation of an adult by a caretaker, or an adult who has been abused or neglected or exploited shall have standing to make a criminal complaint~~].

SECTION 15. A NEW SECTION OF KRS CHAPTER 530 IS CREATED TO READ AS FOLLOWS:

As used in this section and Section 16 of this Act, unless the context otherwise requires:

(1) "Abuse" means the willful infliction of injury, unreasonable confinement, intimidation, or punishment resulting in physical harm or pain, including sexual injury or emotional injury of a vulnerable adult;

(2) "Caretaker" means an individual or institution who has been entrusted with or who has the responsibility for the care of the vulnerable adult as a result of family relationship, or who has assumed the responsibility for the care of the

vulnerable adult voluntarily, or by contract, employment, assignment, legal duty, or agreement;

(3) "Deception" means, but the term is not limited to:

(a) Creating or reinforcing a false impression, including false impressions as to law, value, intention, or other state of mind;

(b) Preventing another from acquiring information that would affect judgment of a transaction; or

(c) Failing to correct a false impression that the deceiver previously created or reinforced or that the deceiver knows to be influencing another to whom the person stands in a fiduciary or confidential relationship;

(4) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a vulnerable adult as evidenced by a substantial and observable impairment in the vulnerable adult's ability to function within a normal range of performance and behavior with regard to age, development, culture, and environment, as documented by a qualified mental health professional;

(5) "Exploitation" means obtaining or using the another person's resources, including but not limited to funds, assets, or property, by deception, intimidation, or similar means with the intent to deprive the person of those resources;

(6) "Intimidation" means the communication by word or act to another person that the person will be deprived of food, nutrition, clothing, shelter, supervision, medicine, medical services or supplies, or money or financial support, or that the person will suffer physical violence, or will be estranged from family members;

(7) "Neglect" means:

(a) Failure by a caretaker to provide goods and services necessary to avoid physical harm, emotional injury, or mental illness; or

(b) A situation in which a vulnerable adult is unable or unwilling to perform or obtain for himself the goods or services that are necessary to maintain his health or welfare; and

(8) "Vulnerable adult" means:

(a) A person eighteen (18) years of age or older, who because of mental or physical impairment is unable, without assistance from others, to manage his own resources, perform activities of daily living, or protect himself from abuse, neglect, or exploitation, and who is in need of protective services;

(b) A person without regard to age who is the victim of abuse or neglect inflicted by a spouse; or

(c) A person sixty (60) years of age or older, without regard to mental or physical impairment.

SECTION 16. A NEW SECTION OF KRS CHAPTER 530 IS CREATED TO READ AS FOLLOWS:

(1) Any person who knowingly or wantonly violates the provisions of subsection (1) of Section 4 of this Act shall be guilty of a Class B misdemeanor. Each violation shall constitute a separate offense.

(2) Any person who knowingly abuses or neglects a vulnerable adult shall be guilty of a Class C felony.

(3) Any person who wantonly abuses or neglects a vulnerable adult shall be guilty of a Class D felony.

(4) Any person who recklessly abuses or neglects a vulnerable adult shall be guilty of a Class A misdemeanor.

(5) Any person who knowingly exploits a vulnerable adult, resulting in a total loss to the adult of more than three hundred dollars ($300) in financial or other resources, shall be guilty of a Class C felony.

(6) Any person who wantonly or recklessly exploits a vulnerable adult, resulting in a total loss to the adult of more than three hundred dollars ($300) in financial or other resources, shall be guilty of a Class D felony.

(7) Any person who knowingly, wantonly, or recklessly exploits a vulnerable adult, resulting in a total loss to the adult of three hundred dollars ($300) or less in financial or other resources, shall be guilty of a Class A misdemeanor.

(8) Any person who knowingly and willfully financially exploits a vulnerable adult within the meaning of KRS Chapter 209 shall be guilty of a Class C felony.

(9) Immunity from criminal liability shall apply to a volunteer who is not compensated or does not expect compensation, and is not a caretaker as defined in Section 15 of this Act, who makes a good faith effort to assist a vulnerable adult and the effort:

(a) Fails; or

(b) Results in harm to the adult if harm was not the intent of the person.

Section 17. The following KRS sections are repealed:

209.090 Legislative intent.

209.990 Penalties.

The Committee Substitute to **HB 105** is as follows:

HB 105, AN ACT relating to the protection of adults.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 209.010 is amended to read as follows:

(1) The purpose of this chapter is:

(a)[~~(1)~~] To provide for the protection of *vulnerable* adults *and victims of spouse abuse* who may be suffering from abuse, neglect, or exploitation *and who request protective services or do not refuse protective services, or who are subject to receipt of protective services under an order of a court of competent jurisdiction*, and to bring said cases under the purview of the Circuit or District Court.

(b)[~~(2)~~] To provide *a mechanism to report abuse, neglect, or exploitation of a vulnerable adult or victim of spouse abuse*[~~that any person who becomes aware of such cases shall report them to a representative of the cabinet~~], thereby causing the protective services of the state to be brought to bear in an effort to protect the health and welfare of these adults in need of protective services and to prevent abuse, neglect, or exploitation.

(2) The General Assembly finds and declares as follows:

(a) Some adults are unable to manage their own affairs or to protect themselves from abuse, neglect, or exploitation and these persons often cannot find others who are able or willing to render assistance;

(b) This chapter creates a system of protective services in which the resources of the Commonwealth are coordinated to fill this need and to assure the availability of services to all vulnerable adults and victims of spouse abuse;

(c) Implementing agencies shall utilize the fewest possible restrictions on the exercise of personal and civil rights, consistent with the person's need for services, to ensure that any protective placement is necessary and is in the most integrated setting appropriate to the individual's treatment needs if that placement can be reasonably accommodated, taking into account the resources available to the state; and

(d) Due process shall be followed when imposing any restrictions on the vulnerable adult's exercise of personal and civil rights.

Section 2. KRS 209.020 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) *"Abuse" means the willful infliction of injury, unreasonable confinement, intimidation, or punishment resulting in physical harm or pain, including sexual injury or emotional injury of a vulnerable adult or victim of spouse abuse;*

(2) "Access to records" means that any representative of an authorized agency shall be allowed access, subject to other applicable law, to the medical, mental health, and financial records of the vulnerable adult that are in the possession of any individual, hospital, firm, financial institution, corporation, or other facility, if necessary to perform the authorized agency's duties as required by law;

(3) "Authorized agency" means:

(a) The Cabinet for Families and Children;

(b) A local law enforcement agency or the Kentucky State Police;

(c) The office of the Commonwealth or county Attorney;

(d) The Medicaid Fraud and Abuse Control Unit, Office of the Attorney General, if a report relates to its duties as set forth in 42 U.S.C. 1396b(q);

(e) The Office of Inspector General, Cabinet for Health Services, if a report relates to abuse, neglect, or exploitation of a vulnerable adult who resides in a facility or agency licensed by the Cabinet for Health Services;

(f) The Office of the Long Term Care Ombudsman, Cabinet for Health Services, if a report relates to its duties as defined in 42 U.S.C. 3058g;

(g) The Office of Aging Services, Cabinet for Health Services, if a report relates to abuse, neglect, or exploitation of a vulnerable adult who resides in a certified assisted living facility;

(h) The Department for Public Health, Cabinet for Health Services, if a report relates to abuse, neglect, or exploitation of a vulnerable adult who resides in a registered boarding home;

(i) The Department for Mental Health and Mental Retardation Services, Cabinet for Health Services, if a report relates to abuse, neglect, or exploitation of a vulnerable adult with mental retardation or a developmental disability, or both, who resides in a certified Supports for Community Living Program;

(j) The Kentucky Board of Nursing, if a report relates to abuse, neglect, or exploitation of a vulnerable adult by a licensed nurse or nurse aide; or

(k) Any other agency that is responsible for regulating an individual, facility, or program that is licensed, certified, registered, or otherwise regulated;

(4) "Caretaker" means a family member as defined in KRS 403.720, or an individual or institution who has been entrusted with or who has the responsibility for the care of the vulnerable adult as a result of family relationship, or who has assumed the responsibility for the care of the vulnerable adult voluntarily, or by contract, employment, assignment, legal duty, or agreement;

(5) "Court" means the Circuit Court or Family Court, or the District Court if no judge of that Circuit Court or Family Court is present in the county;

(6) "Deception" means, but the term is not limited to:

(a) Creating or reinforcing a false impression, including false impressions as to law, value, intention, or other state of mind;

(b) Preventing another from acquiring information that would affect judgment of a transaction; or

(c) Failing to correct a false impression that the deceiver previously created or reinforced or that the deceiver knows to be influencing another to whom the person stands in a fiduciary or confidential relationship;

(7) "Emergency" means that a vulnerable adult is living in conditions that present a substantial risk of death or immediate and serious physical or mental harm to himself or others;

(8) "Emergency protective services" are protective services furnished to a vulnerable adult in an emergency;

(9) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a vulnerable adult as evidenced by a substantial and observable impairment in the vulnerable adult's ability to function within a normal range of performance and behavior with regard to age, development, culture, and environment, as documented by a qualified mental health professional;

(10) "Exploitation" means obtaining or using another person's resources, including but not limited to funds, assets, or property, by deception, intimidation, or similar means with the intent to deprive the person of those resources;

(11) "Intimidation" means the communication by word or act to another person that the person will be deprived of food, nutrition, clothing, shelter, supervision, medicine, medical services or supplies, or money or financial support, or that the person will suffer physical violence, or will be estranged from family members. The term does not include actions in good faith to discharge a patient under regulatory authority;

(12) "Investigation" means the review of a report made under subsection (2) or (3) of Section 4 of this Act and any follow-up determination of whether an alleged victim is a vulnerable adult or a victim of spouse abuse. The term may include the interview of the individual who has been reported as having been abused, neglected, or exploited, and of any other persons who may possess information relevant to the individual's condition or situation, including a coroner or doctor;

(13) "Neglect" means:

(a) Failure by a caretaker to provide goods and services necessary to avoid physical harm, emotional injury, or mental illness; or

(b) A situation in which a vulnerable adult is unable or unwilling to perform or obtain for himself the goods or services that are necessary to maintain his health or welfare;

(14) "Protective placement" means the transfer of a vulnerable adult from his present living arrangement to another;

(15) "Protective services" means services that are undertaken with or on behalf of a vulnerable adult, or victim of spouse abuse, who either does not refuse the services or has requested them. These services may include but are not limited to investigating complaints of possible abuse, neglect, or exploitation to ascertain whether the situation and condition of the vulnerable adult or victim of spouse abuse warrants further action; providing social services aimed at preventing and remedying abuse, neglect, and exploitation; assisting in the relocation of a vulnerable adult or victim of spouse abuse who is in need of protective services to protect him from abuse, neglect, or exploitation; obtaining legal redress, including but not limited to injunctive relief, on behalf of a vulnerable adult or victim of spouse abuse to protect him from abuse, neglect, or exploitation; or sharing information gathered from an investigation with a local law enforcement agency, the Kentucky State Police, or any other authorized agency;

(16) "Victim of spouse abuse" means a person without regard to age who is the victim of abuse or neglect inflicted by a spouse; and

(17) "Vulnerable adult" means:

(a) A person eighteen (18) years of age or older, who because of mental or physical impairment is unable, without assistance from others, to manage his own resources, perform activities of daily living, or protect himself from abuse, neglect, or exploitation, and who is in need of protective services; or

(b) A person sixty (60) years of age or older, without regard to mental or physical impairment[~~"Secretary" means the secretary of the Cabinet for Families and Children;~~

~~(2) "Cabinet" means the Cabinet for Families and Children;~~

~~(3) "Department" means the Department for Community Based Services of the Cabinet for Families and Children;~~

~~(4) "Adult" means:~~

~~(a) A person eighteen (18) years of age or older, who because of mental or physical dysfunctioning, is unable to~~

~~manage his own resources or carry out the activity of daily living or protect himself from neglect, or a hazardous or abusive situation without assistance from others, and who may be in need of protective services; or~~

~~(b) A person without regard to age who is the victim of abuse and neglect inflicted by a spouse;~~

~~(5) "Protective services" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused, neglected, or exploited. These services may include, but are not limited to conducting investigations of complaints of possible abuse, neglect, or exploitation to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action; social services aimed at preventing and remedying abuse, neglect, and exploitation; and services directed toward seeking legal determination of whether or not the adult in need of protective services has been abused, neglected, or exploited and to ensure that he obtains suitable care in or out of his home;~~

~~(6) "Caretaker" means an individual or institution who has the responsibility for the care of the adult as a result of family relationship, or who has assumed the responsibility for the care of the adult person voluntarily, or by contract, or agreement;~~

~~(7) "Abuse" means the infliction of physical pain, mental injury, or injury of an adult;~~

~~(8) "Exploitation" means the improper use of an adult or an adult's resources by a caretaker or other person for the profit or advantage of the caretaker or other person;~~

~~(9) "Investigation" shall include, but is not limited to, a personal interview with the individual reported to be abused, neglected, or exploited. When abuse, or neglect is allegedly the cause of death, a coroner's or doctor's report shall be examined as part of the investigation;~~

~~(10) "Emergency" means that an adult is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others;~~

~~(11) "Emergency protective services" are protective services furnished an adult in an emergency;~~

~~(12) "Protective placement" means the transfer of an adult from his present living arrangement to another;~~

~~(13) "Court" means the Circuit Court or the District Court if no judge of that Circuit Court is present in the county;~~

~~(14) "Access to records" means that any representative of the Cabinet for Families and Children actively involved in the conduct of an abuse, neglect, or exploitation investigation under this chapter shall be allowed access to the medical, mental, health, and financial records of the adult that are in the possession of any individual, hospital, firm, corporation or other facility, if necessary to complete the investigation mandated in this chapter; and~~

~~(15) "Neglect" means a situation in which an adult is unable to perform or obtain for himself the services which are necessary to maintain his health or welfare, or the deprivation of services by a caretaker which are necessary to maintain the health and welfare of an adult, or a situation in which a person deprives his spouse of reasonable services to maintain health and welfare~~].

SECTION 3. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

The secretary to the Cabinet for Families and Children may promulgate administrative regulations in accordance with KRS Chapter 13A to effect the purposes of this chapter. The secretary may take necessary action and may offer or cause to be offered protective services for safeguarding the welfare of a vulnerable adult or victim of spouse abuse who has experienced abuse, neglect, or exploitation. While the cabinet shall continue to have primary responsibility for investigation and the provision of protective services under this chapter, nothing in this chapter shall restrict the authority of another authorized agency to take action pursuant to its statutory authority.

Section 4. KRS 209.030 is amended to read as follows:

(1)[~~The secretary may, within his discretion, adopt such rules, regulations, procedures, guidelines, or any other expressions of policy necessary to effect the purpose of this chapter insofar as such action is reasonably calculated to serve the public interest. The secretary may take necessary action and may offer or cause to be offered protective services toward safeguarding the welfare of an adult who has experienced abuse or neglect, inflicted or caused by a spouse.~~

~~(2)~~] Any person, including[~~,~~] but not limited to ***a***[~~,~~] physician, law enforcement officer, nurse, social worker,[~~ cabinet~~] personnel ***of the Cabinet for Families and Children and the Cabinet for Health Services***, coroner, medical examiner, alternate care facility employee, or caretaker, having reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation, shall ***without delay*** report or cause reports to be made in accordance with the provisions of this chapter. Death of the adult does not relieve one of the responsibility for reporting the circumstances surrounding the death.

(2) (a)[~~(3)~~] ***Any person who has reasonable cause to believe that an adult is a vulnerable adult who has been abused, neglected, or exploited, or is a person who is a victim of spouse abuse, shall without delay cause*** an oral or written report ***to***[~~shall~~] be made***, by telephone or otherwise,***[~~ immediately~~] to the ***Cabinet for Families and Children***[~~cabinet upon knowledge of the occurrence of suspected abuse, neglect, or exploitation of an adult~~].

(b) Any person making[~~ such~~] a report ***under paragraph (a) of this subsection*** shall provide the following information, if known:

1. The name and address of the ***vulnerable*** adult ***or victim of spouse abuse***, or of any other person responsible for his care;

2. The age of the ***vulnerable*** adult;

3. The nature and extent of the abuse, neglect, or exploitation, including ***but not limited to*** any evidence of previous abuse, neglect, or exploitation;

4. The identity of the perpetrator, if known;

5. The identity of the complainant, if possible; and

6. Any other information that the person believes might be helpful in establishing the cause of abuse, neglect, or exploitation.

(3)[~~(4)~~] Upon receipt of the report, the Cabinet ***for Families and Children*** shall take the following action as soon as ***practicable***[~~practical~~]:

(a) Notify ***each***[~~the~~] appropriate ***authorized agency or any other appropriate entity that has a legitimate interest in the report***[~~law enforcement agency~~];

(b) Initiate an investigation of the complaint; and

(c) Make a written report of the initial findings together with a recommendation for further action, if indicated.

(4)[~~(5)~~] Any representative of ***an authorized agency***[~~the cabinet~~] may enter any health facility or health service licensed by the Cabinet ***for Health Services*** at any reasonable time to carry out ***its***[~~the cabinet's~~] responsibilities under this chapter. Any representative of ***an authorized agency***[~~the cabinet~~] actively involved in the conduct of an abuse, neglect, or exploitation investigation under this chapter shall also be allowed access to the ***financial,*** mental ***health,*** and physical health records of the ***vulnerable*** adult ***that***[~~which~~] are in the possession of any individual, ***financial institution,*** hospital, or other facility if necessary to complete the investigation mandated by this chapter.

(5)[~~(6)~~] Any representative of ***an authorized agency***[~~the cabinet~~] may***,*** with consent of the ***vulnerable*** adult or caretaker***,*** enter any private premises where ***a vulnerable***[~~any~~] adult alleged to be abused, neglected, or exploited is found in order to investigate the need for protective services for the purpose of carrying out the provisions of this chapter. If the ***vulnerable*** adult or caretaker does not consent to the investigation, a search warrant may ***be issued***[~~issue~~] upon a showing of probable cause that ***a vulnerable***[~~an~~] adult is being abused, neglected, or exploited, to enable a representative of ***an authorized agency***[~~the cabinet~~] to proceed with the investigation.

(6)[~~(7)~~] If ***the investigation indicates***[~~a determination has been made~~] that protective services are necessary[~~ when indicated by the investigation~~], the Cabinet ***for Families and Children*** shall provide such services within budgetary limitations, except in such cases where ***a vulnerable***[~~an~~] adult chooses to refuse such services.

(7)[~~(8)~~] ***If***[~~In the event~~] the ***vulnerable*** adult ***chooses***[~~elects~~] to accept the protective services to be provided by the Cabinet ***for Families and Children***, the caretaker shall not interfere with the ***cabinet's delivery of***[~~cabinet when rendering~~] such services.

Section 5. KRS 209.040 is amended to read as follows:

Any court may***,*** upon proper application by ***an authorized agency or a private citizen,***[~~the cabinet~~] issue a restraining order or other injunctive relief to prohibit any violation of this chapter, regardless of the existence of any other remedy at law.

Section 6. KRS 209.050 is amended to read as follows:

(1) Anyone acting upon reasonable cause in the making of any report or investigation or participating in the filing of a petition to obtain injunctive relief or emergency protective services for ***a vulnerable***[~~an~~] adult ***or victim of spouse abuse*** pursuant to this chapter, including representatives of ***an authorized agency***[~~the cabinet~~] in the reasonable performance of their duties in good faith, and within the scope of their authority, shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or investigation and such immunity shall apply to those who render protective services in good faith pursuant either to the consent of the ***vulnerable*** adult ***or victim of spouse abuse*** or to court order.

(2) Nothing in this chapter shall be construed to impose civil liability on a person who makes a good faith effort for which the person is not compensated or does not expect compensation to assist a vulnerable adult or victim of spouse abuse, if the effort fails or a vulnerable adult or victim of spouse abuse is harmed in any way through no fault of the person.

Section 7. KRS 209.060 is amended to read as follows:

Neither the psychiatrist-patient privilege nor the husband-wife privilege shall be a ground for excluding evidence regarding the abuse, neglect, or exploitation of ***a vulnerable***[~~an~~] adult ***or victim of spouse abuse*** or the cause thereof in any judicial proceeding resulting from a report pursuant to this chapter.

SECTION 8. A NEW SECTION OF KRS CHAPTER 209 IS CREATED TO READ AS FOLLOWS:

(1) The purpose of this section is to define the role of each authorized agency that provides services to vulnerable adults.

(2) Upon receipt of a report of alleged abuse, neglect, or exploitation of a vulnerable adult, the Cabinet for Families and Children shall:

(a) Offer protective services;

(b) Notify the appropriate local law enforcement agency or the Kentucky State Police;

(c) Notify the Commonwealth's attorney or county attorney;

(d) Notify each additional authorized agency or entity that has a legitimate interest in the allegation;

(e) Investigate the allegation and determine whether the vulnerable adult was abused, neglected, or exploited; and

(f) Report the cabinet's investigative findings to the appropriate local law enforcement agency or Kentucky State Police, Commonwealth's attorney or county attorney, and each additional authorized agency or entity that has a legitimate interest in the allegation.

(3) (a) Upon receipt of a report of alleged abuse, neglect, or exploitation of a vulnerable adult, or upon notification from the Cabinet for Families and Children that a vulnerable adult has been identified as a victim of abuse, neglect, or exploitation, the local law enforcement agency or the Kentucky State Police shall review as soon as practicable and conduct as appropriate a criminal investigation, identify any person or persons suspected of abuse, neglect, or exploitation, and file charges as appropriate. The Commonwealth's attorney or county attorney shall as soon as practicable prosecute, in his discretion, each case in which a local law enforcement agency or the Kentucky State Police has identified a suspect of abuse, neglect, or exploitation.

(b) By November 1 of each year, each local law enforcement agency and the Kentucky State Police shall prepare a report that provides the final disposition or status of each case referred under this subsection during the preceding year, and shall submit the report to the Cabinet for Families and Children. By December 1 of each year, the cabinet shall provide a report to the Legislative Research Commission that summarizes the reports received under this paragraph. No identifying information about individuals shall be submitted to the Legislative Research Commission in this report.

(4) For allegations of abuse, neglect, or exploitation in Medicaid facilities and any other facilities as defined in 42 U.S.C. sec. 1396b(q), the Medicaid Fraud and Abuse Control Unit, Office of Attorney General, shall as soon as practicable:

(a) Conduct a criminal investigation;

(b) Prosecute, in its discretion, or refer for prosecution, as set out in 42 U.S.C. sec. 1396b(q), these cases of abuse, neglect, or exploitation.

(5) The Cabinet for Families and Children shall forward its investigation report of an allegation of abuse, neglect, or exploitation of an adult residing in a licensed health care facility to the Office of Inspector General, Cabinet for Health Services, which shall determine within ninety (90) days whether the facility complied with regulatory requirements. A report of the findings for each allegation shall be generated by the office and maintained in its case file. If a determination is made to take no action upon the report, or if, upon conclusion of the administrative process or judicial review, the office does not uphold the cabinet's determination that the vulnerable adult was abused, neglected, or exploited, the cabinet shall amend its investigative findings to include the final determination. If more than ninety (90) days are needed to complete the determination, a written report shall be generated by the office that details the reasons for the delay. This report shall be placed in the office's case file.

(6) Upon notification that the Cabinet for Families and Children has substantiated that abuse, neglect, or exploitation of a resident occurred in a suspected unlicensed or illegal health facility as defined in KRS 216B.015(12), the Office of Inspector General, Cabinet for Health Services shall determine within ninety (90) days whether the facility operated illegally or without a license and, if so, take all necessary steps to cease illegal operation. A report of the findings for each allegation shall be generated by the office and maintained in its case file. If a determination is made to take no action upon the report, or if, upon conclusion of the administrative process or judicial review, the office does not uphold the cabinet's determination that the vulnerable adult was abused, neglected, or exploited, the cabinet shall amend its investigative findings to include the final determination. If more than ninety (90) days are needed to complete the determination, a written report shall be generated by the office that details the reasons for the delay. This report shall be placed in the office's case file.

(7) The Cabinet for Families and Children shall forward its investigation report of an allegation of abuse, neglect, or exploitation of an adult residing in a Supports for Community Living facility to the Division of Mental Retardation, Department for Mental Health and Mental Retardation, Cabinet for Health Services, which shall determine within ninety (90) days whether the facility complied with regulatory requirements. A report of the findings for each allegation shall be generated by the division and maintained in its case file. If more than ninety (90) days are needed to complete the determination, a written status report shall be generated that details the reasons for the delay. This report shall be placed in the division's case file.

(8) The Cabinet for Families and Children shall forward its investigation report of an allegation of abuse, neglect, or exploitation of an adult residing in a certified or registered facility or program to the agency that has regulatory authority over the facility or program or other office with investigative power, which shall determine within ninety (90) days whether the facility or program complied with regulatory requirements and take such action as may be authorized by law. A report of the findings for each allegation shall be generated by the agency and maintained in its case file. If more than ninety (90) days are needed to complete the determination, a written status report shall be generated that details the reasons for the delay. This report shall be placed in the agency's case file.

(9) Upon notification from the Cabinet for Families and Children that a licensed, registered, or certified professional staff

person had access to a victim during the time that abuse, neglect, or exploitation of a vulnerable adult occurred, the agency responsible for licensing, registering, or certifying the individual shall take such action as may be authorized by law within ninety (90) days. A report of the findings for each allegation shall be generated by the agency and maintained in its case file. If more than ninety (90) days are needed to complete the determination, a written status report shall be generated that details the reasons for the delay. This report shall be placed in the agency's case file.

(10) Upon receipt of an allegation of abuse, neglect, or exploitation, the Long Term Care Ombudsman shall act in accordance with the requirements set forth in 42 U.S.C. sec. 3058g(a)(3) and the Federal Older Americans Act. A report of the findings for each allegation shall be generated by the Long Term Care Ombudsman and maintained as part of its case file. If more than ninety (90) days are needed to complete the determination, a written status report shall be generated that details the reasons for the delay. This report shall be placed in the Long Term Care Ombudsman's case file.

(11) All authorized agencies shall maintain records as to the allegations or investigative reports relating to abuse, neglect, or exploitation that are sent by the Cabinet for Families and Children or other authorized agencies. All authorized agencies shall also maintain records of any dispositions made internally relating to the allegations or investigative reports received. This information shall be available for sharing, as authorized by law, with other authorized agencies.

(12) Upon request, any agency, institution, or facility providing services to vulnerable adults shall cooperate, assist, and provide information that will enable an authorized agency to fulfill its responsibilities under this chapter.

Section 9. KRS 209.100 is amended to read as follows:

(1) If ***a vulnerable***[~~an~~] adult lacks the capacity to consent ***or refuse*** to receive protective services in an emergency, ***protective***[~~these~~] services may be ordered by a court on an emergency basis through an order pursuant to KRS 209.110, provided that:

(a) The ***vulnerable*** adult is in a state of abuse***,***[~~ or~~] neglect***, or exploitation*** and an emergency exists;

(b) The ***vulnerable*** adult is in need of protective services; ***and***

(c)[~~The adult lacks the capacity to consent and refuses to consent to such services; and~~

~~(d)~~] No person authorized by law or court order to give consent for the ***vulnerable*** adult is available to consent to emergency protective services or such person refuses to give consent.

(2) In ordering emergency protective services, the court shall authorize only that intervention ***that***[~~which~~] it finds to be the least restrictive of the individual's liberty and rights while consistent with his welfare and safety. ***If a protective placement is ordered, the court shall authorize only that the individual be placed in the most integrated setting appropriate to his treatment needs if that placement can be reasonably accommodated, taking into account the resources available to the state.***

Section 10. KRS 209.110 is amended to read as follows:

(1) A petition by the Cabinet ***for Families and Children*** for emergency protective services shall be verified by an authorized representative of the cabinet and shall set forth the name, age, and address of the ***vulnerable*** adult in need of protective services; the nature of the disability of the ***vulnerable*** adult, if determinable; the proposed protective services; the petitioner's reasonable belief, together with the facts supportive thereof, as to the existence of the facts, and the facts showing the petitioner's attempts to obtain the ***vulnerable*** adult's consent to the services and the outcomes of such attempts. The petition and all subsequent court documents shall be entitled: "In the interest of----- , ***a vulnerable***[~~an~~] adult in need of protective services." The petition shall be filed in the court of the ***vulnerable*** adult's residence, or if filed pursuant to KRS 209.130, the court of the county in which the ***vulnerable*** adult is physically located.

(2) When a petition for emergency protective services is filed, the court or the clerk shall immediately appoint a guardian ad litem to represent the interest of the ***vulnerable*** adult. The duties of a guardian ad litem representing ***a vulnerable***[~~an~~] adult for whom a petition for emergency protective services has been filed shall include personally interviewing the ***vulnerable*** adult, counseling with the ***vulnerable*** adult with respect to this chapter, informing him of his rights and providing competent representation at all proceedings, and such other duties as the court may order.

(3) Following the filing of a petition, a summons shall be issued and served with a copy of the petition, and notice of the time, date and location of the hearing to be held on the petition. Service shall be made upon the ***vulnerable*** adult and his guardian or, if none, his caretaker. Should the ***vulnerable*** adult have no guardian or caretaker, service shall be made upon the ***vulnerable*** adult's guardian ad litem. Notice of the hearing shall be given to the ***vulnerable*** adult's spouse, or, if none, to his adult children or next of kin, unless the court is satisfied that notification would be ***impracticable***[~~impractical~~]. Service ***for the vulnerable adult shall not be made upon any person who is believed to have perpetrated the abuse, neglect, or exploitation. Service*** of the petition shall be made at least three (3) calendar days prior to the hearing for emergency protective services.

(4) The hearing on the petition for an emergency order for protective services shall be heard under the following conditions:

(a) The hearing on the petition, in the interests of expedition, may be held in any county within the judicial district or circuit served by the court. The court shall give priority to the holdings of the hearings pursuant to petitions filed under this chapter;

(b) The ***vulnerable*** adult or his representative may present evidence and cross-examine witnesses; and

(c) The ***vulnerable*** adult or his representative may petition the court to have any order which is entered pursuant to this chapter[~~,~~] set aside or modified for good cause.

(5) Where protective services are rendered on the basis of an order pursuant to this section, the cabinet shall submit a report to the court describing the circumstances including the name, place, date, and nature of the services. Such report shall be made at least once or on a monthly basis if protective services are provided the ***vulnerable*** adult for a period of longer than one (1) month.

(6) The fee of the guardian ad litem shall be paid by the Cabinet ***for Families and Children*** not to exceed three hundred dollars ($300). This fee is not to be paid to attorneys employed by government funded legal services programs.

Section 11. KRS 209.120 is amended to read as follows:

(1) Upon petition by the Cabinet ***for Families and Children,*** a court may issue an order authorizing the provision of emergency protective services to ***a vulnerable***[~~an~~] adult after a hearing and upon a finding based on a preponderance of the evidence that:

(a) The ***vulnerable*** adult is in a state of abuse ***or***[~~,~~] neglect[~~, or exploitation~~] and is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others***, is being exploited, or is at risk of serious financial loss***;

(b) The ***vulnerable*** adult is in need of protective services;

(c) The ***vulnerable*** adult lacks the capacity to consent to such services; and

(d) No person authorized by law or court order to give consent for the ***vulnerable*** adult is available to consent to protective services or such person refuses to give consent.

(2) In issuing an emergency order***,*** the court shall adhere to the following limitations:

(a) Only such protective services, including medical and surgical care and protective placement, as are necessary to remove the conditions creating the emergency shall be covered, and the court shall specifically designate the approved services in its order. Such designation of approved services shall be deemed to be the consent of the court authorizing the provision of such services.

(b) Protective services authorized by the court shall not include hospitalization or protective placement unless the court specifically finds such action is necessary and gives specific approval for such action in its order. ***If a protective placement is ordered, the court shall authorize only that the individual be placed in the most integrated setting appropriate to his treatment needs if that placement can be reasonably accommodated taking into account the resources available to the state.***

(c) The issuance of an emergency order shall not deprive the ***vulnerable*** adult of any rights except to the extent validly provided for in the order.

(d) To implement an order, the court may authorize forcible entry of the premises of the ***vulnerable*** adult for the purpose of rendering protective services or transporting the ***vulnerable*** adult to another location for the provision of such services. Authorized forcible entry shall be accomplished by a peace officer accompanied by a representative of the Cabinet ***for Families and Children***.

(3) If the court finds, pursuant to a hearing, that the ***vulnerable*** adult is in need of protective services, and should that ***vulnerable*** adult have a guardian who has been derelict in providing for the welfare of the ***vulnerable*** adult, the court shall have the discretion to remove the guardian and appoint another guardian, if an individual is available, willing, and able to function as guardian; such removal and appointment shall be in compliance with the provisions of KRS Chapter 387. It is not necessary for the court to find a guardian has been derelict as a requirement for the issuance of an order for protective services.

(4) If the court finds that protective services are no longer needed by the ***vulnerable*** adult, the court shall order the emergency protective services to terminate.

Section 12. KRS 209.130 is amended to read as follows:

(1) When***,*** from an affidavit or sworn testimony of an authorized representative of the Cabinet ***for Families and Children***, it appears probable that ***a vulnerable***[~~an~~] adult will suffer immediate and irreparable physical injury or death if protective services are not immediately provided, and it appears that the ***vulnerable*** adult is incapable of giving consent, the court may assume jurisdiction and issue an ex parte order providing that certain specific protective services be provided the ***vulnerable*** adult. The court shall not authorize such protective services except those specifically designed to remove the ***vulnerable*** adult from conditions of immediate and irreparable physical injury or death. A copy of the order shall be served upon the ***vulnerable*** adult and his guardian, or if none, his caretaker. ***Service for the vulnerable adult shall not be made upon the person who is believed to have perpetrated the abuse, neglect, or exploitation.***

(2) To implement an ex parte order, the court may authorize forcible entry of the premises of the ***vulnerable*** adult for the purpose of rendering protective services or transporting the ***vulnerable*** adult to another location for the provision of such services. Authorized forcible entry shall be accomplished by a peace officer accompanied by a representative of the

Cabinet *for Families and Children*.

(3) Upon the issuance of an ex parte order, the Cabinet *for Families and Children shall*[~~must~~] file a petition as soon as possible. A hearing *shall*[~~must~~] be held within seventy-two (72) hours, exclusive of Saturdays and Sundays, from the issuance of an ex parte order.

Section 13. KRS 209.140 is amended to read as follows:

All information obtained by *an authorized agency*[~~the department staff~~] or its delegated representative, as a result of an investigation made pursuant to this chapter, shall not be divulged to anyone except:

(1) Persons suspected of abuse,[~~ or~~] neglect, or exploitation, provided that in such cases names of informants may be withheld, unless ordered by the court;

(2) Persons within *an authorized agency or its delegated representative*[~~the department or cabinet~~] with a legitimate interest or responsibility related to the case;

(3) Other medical, psychological, or social service agencies, *financial institutions,* or law enforcement agencies that have a legitimate interest in the case;

(4) Cases where a court orders release of such information;[~~ and~~]

(5) The *allegedly*[~~alleged~~] abused,[~~ or~~] neglected, or exploited person*; and*

(6) If the vulnerable adult or victim of spouse abuse is deceased, the executor or administrator of his estate.

Section 14. KRS 209.150 is amended to read as follows:

The following persons shall have standing to file a criminal complaint:

(1) Any person with personal knowledge of the abuse, neglect, or exploitation of a vulnerable adult by the vulnerable adult's caretaker;

(2) Any vulnerable adult who has been abused, neglected, or exploited; or

(3) Any representative of *an authorized agency*[~~the cabinet~~] acting officially in that capacity[~~, any person with personal knowledge of the abuse or neglect, or exploitation of an adult by a caretaker, or an adult who has been abused or neglected or exploited shall have standing to make a criminal complaint~~].

SECTION 15. A NEW SECTION OF KRS CHAPTER 530 IS CREATED TO READ AS FOLLOWS:

As used in this section and Section 16 of this Act, unless the context otherwise requires:

(1) "Abuse" means the willful infliction of injury, unreasonable confinement, intimidation, or punishment resulting in physical harm or pain, including sexual injury or emotional injury of a vulnerable adult;

(2) "Caretaker" means a family member as defined in KRS 403.720, or an individual or institution who has been entrusted with or who has the responsibility for the care of the vulnerable adult as a result of family relationship, or who has assumed the responsibility for the care of the vulnerable adult voluntarily, or by contract, employment, assignment, legal duty, or agreement;

(3) "Deception" means, but the term is not limited to:

(a) Creating or reinforcing a false impression, including false impressions as to law, value, intention, or other state of mind;

(b) Preventing another from acquiring information that would affect judgment of a transaction; or

(c) Failing to correct a false impression that the deceiver previously created or reinforced or that the deceiver knows to be influencing another to whom the person stands in a fiduciary or confidential relationship;

(4) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a vulnerable adult as evidenced by a substantial and observable impairment in the vulnerable adult's ability to function within a normal range of performance and behavior with regard to age, development, culture, and environment, as documented by a qualified mental health professional;

(5) "Exploitation" means obtaining or using the another person's resources, including but not limited to funds, assets, or property, by deception, intimidation, or similar means with the intent to deprive the person of those resources;

(6) "Intimidation" means the communication by word or act to another person that the person will be deprived of food, nutrition, clothing, shelter, supervision, medicine, medical services or supplies, or money or financial support, or that the person will suffer physical violence, or will be estranged from family members;

(7) "Neglect" means:

(a) Failure by a caretaker to provide goods and services necessary to avoid physical harm, emotional injury, or mental illness; or

(b) A situation in which a vulnerable adult is unable or unwilling to perform or obtain for himself the goods or services that are necessary to maintain his health or welfare; and

(8) "Vulnerable adult" means:

(a) A person eighteen (18) years of age or older, who because of mental or physical impairment is unable, without

assistance from others, to manage his own resources, perform activities of daily living, or protect himself from abuse, neglect, or exploitation, and who is in need of protective services; or

(b) A person sixty (60) years of age or older, without regard to mental or physical impairment.

SECTION 16. A NEW SECTION OF KRS CHAPTER 530 IS CREATED TO READ AS FOLLOWS:

(1) Any person who knowingly or wantonly violates the provisions of subsection (1) of Section 4 of this Act shall be guilty of a Class B misdemeanor. Each violation shall constitute a separate offense.

(2) Any caretaker who knowingly abuses or neglects a vulnerable adult shall be guilty of a Class C felony.

(3) Any caretaker who wantonly abuses or neglects a vulnerable adult shall be guilty of a Class D felony.

(4) Any caretaker who recklessly abuses or neglects a vulnerable adult shall be guilty of a Class A misdemeanor.

(5) Any caretaker who knowingly exploits a vulnerable adult, resulting in a total loss to the adult of more than three hundred dollars ($300) in financial or other resources, shall be guilty of a Class C felony.

(6) Any caretaker who wantonly or recklessly exploits a vulnerable adult, resulting in a total loss to the adult of more than three hundred dollars ($300) in financial or other resources, shall be guilty of a Class D felony.

(7) Any caretaker who knowingly, wantonly, or recklessly exploits a vulnerable adult, resulting in a total loss to the adult of three hundred dollars ($300) or less in financial or other resources, shall be guilty of a Class A misdemeanor.

(8) Any person who knowingly and willfully financially exploits a vulnerable adult within the meaning of KRS Chapter 209 shall be guilty of a Class C felony.

(9) Immunity from criminal liability shall apply to a volunteer who is not compensated or does not expect compensation, and is not a caretaker as defined in Section 15 of this Act, who makes a good faith effort to assist a vulnerable adult and the effort:

(a) Fails; or

(b) Results in harm to the adult if harm was not the intent of the person.

Section 17. The following KRS sections are repealed:

209.090 Legislative intent.

209.990 Penalties.

HB 148, AN ACT relating to children's health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares:

(1) The percentage of the state's children and adults who are obese exceeds the national average.

(2) Obesity leads to higher rates of diabetes, heart disease, strokes, and kidney failure. These diseases, often arising in older age as a result of unhealthy lifestyles that began during the person's youth, place an undue financial burden on individuals, the health care industry, and state health care programs.

(3) The Commonwealth should inform children and their parents about the importance of good nutrition, healthy food choices, and physical activity and their effect on positive health outcomes.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, unless the context requires otherwise, "school day" means the period of time between the arrival of the first student at the school building and the end of the last instructional period.

(2) During a school day, a school shall not sell the following items through vending machines, school stores, canteens, or fundraisers by students, teachers, or groups: chewing gum and water ices as defined in 7 C.F.R. Part 210; any food item that contains more than forty percent (40%) added sugar by weight; or other items, except seeds and nuts, that contain more than six (6) grams of fat per serving.

(3) The sale of any food or beverage item to students in competition with the School Breakfast Program or National School Lunch Program, except for water, low-fat milk or low-fat flavored milk, or juice that contains at least twenty-five percent (25%) real juice, shall be prohibited on the school campus during the school day until thirty (30) minutes after the close of the last lunch period.

(4) A school may offer for a la carte sale on the cafeteria line only those items that meet the United States Department of Agriculture standard for a breakfast or lunch component, using the food-based or enhanced food-based menu planning method, except that frozen desserts that contain at least twenty-five percent (25%) real juice, yogurt, and dairy products may be offered.

(5) Nothing in this section shall be construed to prohibit or limit the sale of any food or beverage item to teachers, administrators, or other adult school employees in a separate area that is not accessible to students.

(6) The provisions of this section shall become effective with the 2005-2006 school year.

SECTION 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) Each school district shall appoint a food service director who is responsible for the management and oversight of the food service program in the district, except two (2) or more contiguous districts may form one (1) "school food service area" and a school food service director shall be selected by the participating school superintendents to oversee the "school food service area."

(2) (a) Any person serving as a school food service director on the effective date of this Act and who does not hold the "school foodservice and nutrition specialist" credential or the Level 2 certificate issued by the American School Food Service Association shall obtain the appropriate credential by July 30, 2007.

(b) Any person appointed to serve as school food service director after the effective date of this Act who does not hold the "school foodservice and nutrition specialist" credential or the Level 2 certificate issued by the American School Food Service Association shall obtain the appropriate credential within three (3) years of his or her appointment.

(c) Ten (10) clock hours of the required continuing education for maintaining the appropriate credential or certificate under this subsection shall be directly related to applied nutrition and healthy meal planning and preparation.

(3) School cafeteria managers shall annually receive at least two (2) hours of continuing education in applied nutrition and healthy meal planning and preparation.

Section 4. KRS 156.160 is amended to read as follows:

(1) With the advice of the Local Superintendents Advisory Council, the Kentucky Board of Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:

(a) Courses of study for the different grades and kinds of common schools identifying the common curriculum content directly tied to the goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and 158.6453 and distributed to local school districts and schools. They shall include the following: the courses of study for students shall include American sign language which shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law;

(b) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;

(c) The minimum requirements for high school graduation in light of the expected outcomes for students and schools set forth in KRS 158.6451. Student scores from any assessment administered under KRS 158.6453 that are determined by the National Technical Advisory Panel to be valid and reliable at the individual level shall be included on the student transcript. The National Technical Advisory Panel shall submit its determination to the commissioner of education and the Legislative Research Commission;

(d) Taking and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number or whose parents or guardians choose not to disclose the Social Security number for the student;

(e) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the Kentucky Board of Education shall adopt the Uniform State Building Code;

(f) Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The administrative regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The administrative regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the Kentucky Board of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Kentucky Board of Education;

(g) A vision examination by an optometrist or ophthalmologist that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence that a vision examination that meets the criteria prescribed by the Kentucky Board of Education has been performed. This evidence shall be submitted to the school no later than January 1 of the first year that a three (3), four (4), five (5), or six (6) year-old child is enrolled in a public school, public preschool, or Head Start program;

(h) The transportation of children to and from school;

(i) The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(j) The preparation of budgets and salary schedules for the several school districts under the management and control of the Kentucky Board of Education;

(k) A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and

(l) The disposal of real and personal property owned by local boards of education.

(2) (a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include but are not limited to the following:

1. An alternative approach will achieve the same result required by the administrative regulation;

2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or

3. There is a finding of good cause for the waiver.

(b) The following shall not be subject to waiver:

1. Administrative regulations relating to health and safety;

2. Administrative regulations relating to civil rights;

3. Administrative regulations required by federal law; and

4. Administrative regulations promulgated in accordance with KRS 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to measurement of performance outcomes and determination of successful districts or schools, except upon issues relating to the grade configuration of schools.

(c) Any waiver granted under this subsection shall be subject to revocation upon a determination by the Kentucky Board of Education that the school district or school holding the waiver has subsequently failed to meet the intent of the waiver.

(3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the Kentucky Board of Education and be certified upon application to the board by such schools.

(4) Any public school that violates the provisions of Section 2 of this Act shall be subject to a penalty to be assessed by the commissioner of education as follows:

(a) The first violation shall result in a fine of no less than one (1) week's revenue from the sale of the competitive food;

(b) Subsequent violations shall result in a fine of no less than one (1) month's revenue from the sale of the competitive food;

(c) "Habitual violations," which means five (5) or more violations within a six (6) month period, shall result in a six (6) month ban on competitive food sales for the violating school; and

(d) Revenue collected as a result of the fines in this subsection shall be transferred to the food service fund of the local school district.

The Committee Substitute to **HB 148** is as follows:

HB 148, AN ACT relating to children's health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares:

(1) The percentage of the state's children and adults who are obese exceeds the national average.

(2) Obesity leads to higher rates of diabetes, heart disease, strokes, and kidney failure. These diseases, often arising in older age as a result of unhealthy lifestyles that began during the person's youth, place an undue financial burden on individuals, the health care industry, and state health care programs.

(3) The Commonwealth should inform children and their parents about the importance of good nutrition, healthy food choices, and physical activity and their effect on positive health outcomes.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, unless the context requires otherwise, "school day" means the period of time between the arrival of the first student at the school building and the end of the last instructional period.

(2) During a school day, a school shall not sell the following items through vending machines, school stores, canteens, or

fundraisers by students, teachers, or groups: chewing gum and water ices as defined in 7 C.F.R. Part 210; any food item that contains more than forty percent (40%) added sugar by weight; or other items, except seeds and nuts, that contain more than six (6) grams of fat per serving.

(3) A school may offer for a la carte sale on the cafeteria line only those items that meet the United States Department of Agriculture standard for a breakfast or lunch component, using the food-based or enhanced food-based menu planning method, except that frozen desserts that contain at least twenty-five percent (25%) real juice, yogurt, and dairy products may be offered.

(4) Nothing in this section shall be construed to prohibit or limit the sale of any food or beverage item to teachers, administrators, or other adult school employees in a separate area that is not accessible to students.

(5) The provisions of this section shall become effective with the 2005-2006 school year.

SECTION 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) Each school district shall appoint a food service director who is responsible for the management and oversight of the food service program in the district, except two (2) or more contiguous districts may form one (1) "school food service area" and a school food service director shall be selected by the participating school superintendents to oversee the "school food service area."

(2) (a) Any person serving as a school food service director on the effective date of this Act and who does not hold the "school food service and nutrition specialist" credential or the Level 2 certificate issued by the American School Food Service Association shall obtain the appropriate credential by July 30, 2007.

(b) Any person appointed to serve as school food service director after the effective date of this Act who does not hold the "school food service and nutrition specialist" credential or the Level 2 certificate issued by the American School Food Service Association shall obtain the appropriate credential within three (3) years of his or her appointment.

(c) Ten (10) clock hours of the required continuing education for maintaining the appropriate credential or certificate under this subsection shall be directly related to applied nutrition and healthy meal planning and preparation.

(3) School cafeteria managers shall annually receive at least two (2) hours of continuing education in applied nutrition and healthy meal planning and preparation.

Section 4. KRS 156.160 is amended to read as follows:

(1) With the advice of the Local Superintendents Advisory Council, the Kentucky Board of Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:

(a) Courses of study for the different grades and kinds of common schools identifying the common curriculum content directly tied to the goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and 158.6453 and distributed to local school districts and schools. They shall include the following: the courses of study for students shall include American sign language which shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law;

(b) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;

(c) The minimum requirements for high school graduation in light of the expected outcomes for students and schools set forth in KRS 158.6451. Student scores from any assessment administered under KRS 158.6453 that are determined by the National Technical Advisory Panel to be valid and reliable at the individual level shall be included on the student transcript. The National Technical Advisory Panel shall submit its determination to the commissioner of education and the Legislative Research Commission;

(d) Taking and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number or whose parents or guardians choose not to disclose the Social Security number for the student;

(e) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the Kentucky Board of Education shall adopt the Uniform State Building Code;

(f) Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The administrative regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The administrative regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the Kentucky Board of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Kentucky Board of Education;

(g) A vision examination by an optometrist or ophthalmologist that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence that a vision examination that meets the criteria prescribed by the Kentucky Board of Education has been performed. This evidence shall be submitted to the school no later than January 1 of the first year that a three (3), four (4), five (5), or six (6) year-old child is enrolled in a public school, public preschool, or Head Start program;

(h) The transportation of children to and from school;

(i) The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(j) The preparation of budgets and salary schedules for the several school districts under the management and control of the Kentucky Board of Education;

(k) A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and

(l) The disposal of real and personal property owned by local boards of education.

(2) (a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include but are not limited to the following:

1. An alternative approach will achieve the same result required by the administrative regulation;
2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or
3. There is a finding of good cause for the waiver.

(b) The following shall not be subject to waiver:

1. Administrative regulations relating to health and safety;
2. Administrative regulations relating to civil rights;
3. Administrative regulations required by federal law; and
4. Administrative regulations promulgated in accordance with KRS 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to measurement of performance outcomes and determination of successful districts or schools, except upon issues relating to the grade configuration of schools.

(c) Any waiver granted under this subsection shall be subject to revocation upon a determination by the Kentucky Board of Education that the school district or school holding the waiver has subsequently failed to meet the intent of the waiver.

(3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the Kentucky Board of Education and be certified upon application to the board by such schools.

(4) Any public school that violates the provisions of Section 2 of this Act shall be subject to a penalty to be assessed by the commissioner of education as follows:

(a) The first violation shall result in a fine of no less than one (1) week's revenue from the sale of the competitive food;

(b) Subsequent violations shall result in a fine of no less than one (1) month's revenue from the sale of the competitive food;

(c) "Habitual violations," which means five (5) or more violations within a six (6) month period, shall result in a six (6) month ban on competitive food sales for the violating school; and

(d) Revenue collected as a result of the fines in this subsection shall be transferred to the food service fund of the local school district.

HB 157, AN ACT relating to services for individuals with brain injuries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189A.050 is amended to read as follows:

(1) All persons convicted of violation of KRS 189A.010(1)(a), (b), (c), or (d) shall be sentenced to pay a service fee of ***three hundred twenty-five***[~~two hundred fifty~~] dollars ***($325)***[~~($250)~~], which shall be in addition to all other penalties authorized by law.

(2) The fee shall be imposed in all cases but shall be subject to the provisions of KRS 534.020 relating to the method of imposition and KRS 534.060 as to remedies for nonpayment of the fee.

(3) The revenue collected from the service fee imposed by this section shall be utilized as follows:

(a) ***Twelve***[~~Fifteen~~] percent ***(12%)***[~~(15%)~~] of the amount collected shall be transferred to the Kentucky State Police forensic laboratory for the acquisition, maintenance, testing, and calibration of alcohol concentration testing instruments and the training of laboratory personnel to perform these tasks;

(b) ***Twenty***[~~Twenty-five~~] percent ***(20%)***[~~(25%)~~] of the service fee collected pursuant to this section shall be allocated to the Department of Public Advocacy;

(c) One percent (1%) shall be transferred to the Prosecutor's Advisory Council for training of prosecutors for the prosecution of persons charged with violations of this chapter and for obtaining expert witnesses in cases involving the prosecution of persons charged with violations of this chapter or any other offense in which driving under the influence is a factor in the commission of the offense charged;

(d) ***Sixteen percent (16%) of the amount collected shall be transferred as follows:***

1. Fifty percent (50%) shall be credited to the Traumatic Brain Injury Trust Fund established under KRS 211.476. Funds collected under this subsection shall not apply to the limits established under KRS 42.320(2)(d); and

2. Fifty percent (50%) shall be credited to the Cabinet for Health Services, Department for Mental Health and Mental Retardation Services, for the purposes of providing direct services to individuals with brain injuries that may include long-term supportive services and training and consultation to professionals working with individuals with brain injuries. As funding becomes available under this subparagraph, the Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to implement the services permitted by this subparagraph.

(e) Any amount specified by a specific statute shall be transferred as provided in that statute; and

(f)[~~(e)~~] The remainder of the service fee shall be utilized to fund enforcement of this chapter and for the support of jails, recordkeeping, treatment, and educational programs authorized by this chapter and by the Department of Public Advocacy.

(4) The amounts specified in subsection (3)(a), (b),[~~ and~~] (c)***, and (d)*** of this section shall be placed in trust and agency accounts that shall not lapse.

Section 2. KRS 42.320 is amended to read as follows:

(1) There is hereby established the court cost distribution fund, which is created to provide a central account into which the court costs collected by all circuit clerks, under KRS 23A.205(1) and 24A.175(1), shall be paid.

(2) The fund shall be administered by the Finance and Administration Cabinet, which shall make monthly disbursements from the fund according to the following schedule:

(a) Forty-nine percent (49%) of each court cost shall be paid into the general fund;

(b) Ten and eight-tenths percent (10.8%) of each court cost, up to five million four hundred thousand dollars ($5,400,000), shall be paid into the State Treasury for the benefit and use of the Kentucky Local Correctional Facilities Construction Authority under KRS 441.605 to 441.695;

(c) Six and one-half percent (6.5%) of each court cost, up to three million two hundred fifty thousand dollars ($3,250,000), shall be paid into the spinal cord and head injury research trust fund created in KRS 211.504;

(d) Five and one-half percent (5.5%) of each court cost, up to ***three million two hundred fifty thousand***[~~two million seven hundred fifty thousand~~] dollars ***($3,250,000)***[~~($2,750,000)~~], shall be paid into the traumatic brain injury trust fund created in KRS 211.476;

(e) Five percent (5%) of each court cost, up to two million five hundred thousand dollars ($2,500,000), shall be paid into a trust and agency account with the Administrative Office of the Courts and is to be used by the circuit clerks to hire additional deputy clerks and to enhance deputy clerk salaries;

(f) Three and one-half percent (3.5%) of each court cost, up to one million seven hundred fifty thousand dollars ($1,750,000), shall be paid to a special trust and agency account that shall not lapse for the Department of Public Advocacy;

(g) Three and four-tenths percent (3.4%) of each court cost, up to one million seven hundred thousand dollars ($1,700,000), shall be paid into the crime victims' compensation fund created in KRS 346.185;

(h) Seven-tenths of one percent (0.7%) of each court cost, up to three hundred fifty thousand dollars ($350,000), shall be paid to the Justice Cabinet to defray the costs of conducting record checks on prospective firearms purchasers pursuant to the Brady Handgun Violence Prevention Act and for the collection, testing, and storing of DNA samples;

(i) Ten and one-tenth percent (10.1%) of each court cost, up to five million fifty thousand dollars ($5,050,000), deposited in the fund shall be paid to the county sheriff in the county from which the court cost was received; and

(j) Five and one-half percent (5.5%) of each court cost, up to two million seven hundred fifty thousand dollars ($2,750,000), deposited in the fund shall be paid to the county treasurer in the county from which the court cost was received and shall be used by the fiscal court in that county for the purposes of defraying the costs of operation of the county jail and the transportation of prisoners.

(3) Any moneys remaining in the fund after the monthly disbursements in subsection (2) of this section shall be paid into the general fund.

(4) Any moneys collected above the prescribed amount shall be paid into the general fund.

The Committee Substitute to **HB 157** is as follows:

HB 157, AN ACT relating to services for individuals with brain injuries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189A.050 is amended to read as follows:

(1) All persons convicted of violation of KRS 189A.010(1)(a), (b), (c), or (d) shall be sentenced to pay a service fee of *three hundred twenty-five*[~~two hundred fifty~~] dollars *($325)*[~~($250)~~], which shall be in addition to all other penalties authorized by law.

(2) The fee shall be imposed in all cases but shall be subject to the provisions of KRS 534.020 relating to the method of imposition and KRS 534.060 as to remedies for nonpayment of the fee.

(3) The revenue collected from the service fee imposed by this section shall be utilized as follows:

(a) *Twelve*[~~Fifteen~~] percent *(12%)*[~~(15%)~~] of the amount collected shall be transferred to the Kentucky State Police forensic laboratory for the acquisition, maintenance, testing, and calibration of alcohol concentration testing instruments and the training of laboratory personnel to perform these tasks;

(b) *Twenty*[~~Twenty-five~~] percent *(20%)*[~~(25%)~~] of the service fee collected pursuant to this section shall be allocated to the Department of Public Advocacy;

(c) One percent (1%) shall be transferred to the Prosecutor's Advisory Council for training of prosecutors for the prosecution of persons charged with violations of this chapter and for obtaining expert witnesses in cases involving the prosecution of persons charged with violations of this chapter or any other offense in which driving under the influence is a factor in the commission of the offense charged;

(d) *Sixteen percent (16%) of the amount collected shall be transferred as follows:*

1. Fifty percent (50%) shall be credited to the Traumatic Brain Injury Trust Fund established under KRS 211.476. Funds collected under this subsection shall not apply to the limits established under KRS 42.320(2)(d); and

2. Fifty percent (50%) shall be credited to the Cabinet for Health Services, Department for Mental Health and Mental Retardation Services, for the purposes of providing direct services to individuals with brain injuries that may include long-term supportive services and training and consultation to professionals working with individuals with brain injuries. As funding becomes available under this subparagraph, the Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to implement the services permitted by this subparagraph.

(e) Any amount specified by a specific statute shall be transferred as provided in that statute; and

(f)[~~(e)~~] The remainder of the service fee shall be utilized to fund enforcement of this chapter and for the support of jails, recordkeeping, treatment, and educational programs authorized by this chapter and by the Department of Public Advocacy.

(4) The amounts specified in subsection (3)(a), (b),[~~ and~~] (c)*, and (d)* of this section shall be placed in trust and agency accounts that shall not lapse.

Section 2. KRS 42.320 is amended to read as follows:

(1) There is hereby established the court cost distribution fund, which is created to provide a central account into which the court costs collected by all circuit clerks, under KRS 23A.205(1) and 24A.175(1), shall be paid.

(2) The fund shall be administered by the Finance and Administration Cabinet, which shall make monthly disbursements from the fund according to the following schedule:

(a) Forty-nine percent (49%) of each court cost shall be paid into the general fund;

(b) Ten and eight-tenths percent (10.8%) of each court cost, up to five million four hundred thousand dollars ($5,400,000), shall be paid into the State Treasury for the benefit and use of the Kentucky Local Correctional Facilities Construction Authority under KRS 441.605 to 441.695;

(c) Six and one-half percent (6.5%) of each court cost, up to three million two hundred fifty thousand dollars ($3,250,000), shall be paid into the spinal cord and head injury research trust fund created in KRS 211.504;

(d) Five and one-half percent (5.5%) of each court cost, up to ***three million two hundred fifty thousand***~~[two million seven hundred fifty thousand]~~ dollars ***($3,250,000)***~~[($2,750,000)]~~, shall be paid into the traumatic brain injury trust fund created in KRS 211.476;

(e) Five percent (5%) of each court cost, up to two million five hundred thousand dollars ($2,500,000), shall be paid into a trust and agency account with the Administrative Office of the Courts and is to be used by the circuit clerks to hire additional deputy clerks and to enhance deputy clerk salaries;

(f) Three and one-half percent (3.5%) of each court cost, up to one million seven hundred fifty thousand dollars ($1,750,000), shall be paid to a special trust and agency account that shall not lapse for the Department of Public Advocacy;

(g) Three and four-tenths percent (3.4%) of each court cost, up to one million seven hundred thousand dollars ($1,700,000), shall be paid into the crime victims' compensation fund created in KRS 346.185;

(h) Seven-tenths of one percent (0.7%) of each court cost, up to three hundred fifty thousand dollars ($350,000), shall be paid to the Justice Cabinet to defray the costs of conducting record checks on prospective firearms purchasers pursuant to the Brady Handgun Violence Prevention Act and for the collection, testing, and storing of DNA samples;

(i) Ten and one-tenth percent (10.1%) of each court cost, up to five million fifty thousand dollars ($5,050,000), deposited in the fund shall be paid to the county sheriff in the county from which the court cost was received; and

(j) Five and one-half percent (5.5%) of each court cost, up to two million seven hundred fifty thousand dollars ($2,750,000), deposited in the fund shall be paid to the county treasurer in the county from which the court cost was received and shall be used by the fiscal court in that county for the purposes of defraying the costs of operation of the county jail and the transportation of prisoners.

(3) Any moneys remaining in the fund after the monthly disbursements in subsection (2) of this section shall be paid into the general fund.

(4) Any moneys collected above the prescribed amount shall be paid into the general fund.

Section 3. The moneys received from the fines levied under subparagraphs 1. and 2. of paragraph (d) of subsection (3) of Section 1 of this Act are hereby appropriated for the purposes provided in those subparagraphs.

The Committee Amendment No. 1 Title to **HB 157** is as follows:

HB 157, Amend the title to read as follows:

"AN ACT relating to services for individuals with brain injuries and making an appropriation therefor.".

Calendar

HB 152, HCR 23, 24, 31, 32, 33, 34, HB 7, 29, 139, 126, 200, 6, 18, 135, 140, 146, 187, and **HCR 14** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order. Representative Adkins moved that the rules be suspended for a Rules Committee report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 6, 7, 29, 126, 152, 187, 200, HCR 14, 23, 24, 31, 32, 33,** and **34** have been posted for passage in the Regular Orders of the Day for January 16, 2004.

Orders of the Day

HB 4 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 4** be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See January 15, 2004, roll call on **HB 4** - Appendix.)

HB 4 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 4** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 94 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved that **HB 94** be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See January 15, 2004, roll call on **HB 94** - Appendix.)

HB 94 was passed and the title agreed to.

Representative L. Clark moved that the vote by which **HB 94** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 97 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved that **HB 97** be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See January 15, 2004, roll call on **HB 97** - Appendix.)

HB 97 was passed and the title agreed to.

Representative Thomas moved that the vote by which **HB 97** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 225 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved that **HB 225** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See January 15, 2004, roll call on **HB 225** - Appendix.)

HB 225 was passed and the title agreed to.

Representative Weaver moved that the vote by which **HB 225** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 113 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved that **HB 113** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See January 15, 2004, roll call on **HB 113** - Appendix.)

HB 113 was passed and the title agreed to.

Representative Weaver moved that the vote by which **HB 113** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 29 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HCR 29** be adopted.

On the roll call the vote was: **Yeas 93, Nays 0**. (See January 15, 2004, roll call on **HCR 29** - Appendix.)

HCR 29 was adopted.

HCR 39 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HCR 39** be adopted.

On the roll call the vote was: **Yeas 93, Nays 0**. (See January 15, 2004, roll call on **HCR 39** - Appendix.)

HCR 39 was adopted.

Motions, Petitions, and Communications (Continued)

Representative Nunn moved to withdraw **HB 103**. Agreed.

Representative Miller moved the adoption of the following **Legislative Citation No. 9**.

The House of Representatives of the Commonwealth of Kentucky hereby offers a most enthusiastic welcome to Olivia Marie Henken as she visits the chambers of the House of Representatives to open this day of the 2004 Regular Session of the Kentucky General Assembly by singing the National Anthem. A talented and experienced young performer, Ms. Henken has regaled audiences with her rendition of the National Anthem on numerous occasions, including at the 2000 and 2003 Derby Classics, the Lighting of the Olympic Torch in 2002, the Southwest Breast Cancer Awareness Golf Scramble, the Kosair 75th Anniversary Gala, and at several athletic events for celebrated local and regional teams. In recognition of her immense talent and skill she has been awarded a recording contract with an independent label; was named a finalist in the 2003 Fox 41 Kentuckiana Idol competition; and, was crowned the 2000 Miss Kentucky Pre-Teen and the 1998 Miss Kentucky American Sweetheart. In addition, she was a member of the 2003 National Cheerleading Champions and won top honors in 2000 in a national speech competition. Inasmuch as Olivia Marie Henken has demonstrated tremendous charm and grace by her presence on this memorable occasion, the members of this august body are delighted to join Representative Charles Miller in applauding this remarkable young lady for her splendid performance and in extending to her best wishes for continuing success and good fortune. Done in Frankfort, Kentucky, this fifteenth day of January, in the year two thousand and four.

Legislative Citation No. 9 was adopted without objection.

Representative Nesler moved the adoption of the following **HR 80**:

HR 80, A RESOLUTION adjourning the House of Representatives in loving memory and honor of James Edward Perkins.

With deepest respect and admiration, we pay homage and tribute to James Edward Perkins, and we pause in silent reverence for his soul.

WHEREAS, James Edward Perkins was born on April 3, 1920; and

WHEREAS, James Edward Perkins was the devoted husband of Stella Mae Perkins for 62 years; he was the adored father of a daughter, Jimmie Lynn Crisp, and he was the proud grandfather of four grandchildren and one great-grandchild; and

WHEREAS, James Edward Perkins served his country with pride in the United States Army Air Forces during World War II; and

WHEREAS, James Edward Perkins served the people of his community by giving 37 years of dedicated service as an employee of the Ohio Valley Gas Company; and

WHEREAS, James Edward Perkins served his God as a devout member of the Northside Baptist Church for 61 years, serving as deacon and usher to his fellow believers; and

WHEREAS, James Edward Perkins was a gentleman in the truest meaning of the word; and

WHEREAS, James Edward Perkins was the soul mate and best friend of his devoted wife, Stella Reed Perkins; and

WHEREAS, James Edward Perkins loved and served three things, supremely: his God, his family, and his church; and

WHEREAS, James Edward Perkins was loved by all who knew him; and

WHEREAS, the passing of James Edward Perkins has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of James Edward Perkins, and extends to his family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of James Edward Perkins.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Fred Nessler for transmission to the next of kin.

There being no objection **HR 80** was adopted.

Representative Adkins moved that the rules be suspended for the Introduction and Posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 307, by Representative Stein: AN ACT relating to advertising in county jails.

HB 308, by Representatives Hoover and Stein: AN ACT relating to civil actions.

HB 309, by Representative Dw. Butler: AN ACT relating to school employees' sick leave.

HB 310, by Representative Bather: AN ACT relating to a surtax on cigarettes, declaring an emergency, and making an appropriation therefor.

HB 311, by Representative Wayne: AN ACT relating to public employees.

HR 81, by Representatives Webb, Stein, Marzian, Jenkins, Palumbo, Belcher, Westrom, Sims, and Pullin: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Captain Kimberly N. Hampton who perished in Iraq in January 2004.

HJR 82, by Representatives Moberly, Napier, and Pasley: A JOINT RESOLUTION naming the "Battlefield Memorial Highway" in Madison County.

HB 312, by Representatives Fischer and B. Smith: AN ACT relating to crimes and punishments.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Education: **HB 131, 193, 194**

Local Government: **HB 202**

Motions, Petitions, and Communications (Continued)

Representative S. Lee moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative S. Lee moved that he be recorded as voting "yea" on **HB 97**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 94**. Agreed.

Representative Denham moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Denham moved that he be recorded as voting "yea" on **HB 4**. Agreed.

Representative Ford moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Ford moved that he be recorded as voting "yea" on **HB 94** and **HB 97**. Agreed.

Floor Amendments

Floor Amendment No. 2 to the Committee Substitute to **HB 1**, by Representative Feeley:

HB 1, On page 10, line 13, after "*position*" by deleting "*for a period of one (1) year from the date of termination or resignation from the unclassified position*" and inserting in lieu thereof "*during the last twelve (12) months of the term of office of the sitting Governor. The Executive Branch Ethics Commission may grant an exception to this requirement on good cause shown by the agency with a vacancy that desires to move that applicant into a classified position, and upon the applicant's petition to the commission. The commission shall consider the agency's showing of good cause and the applicant's petition in an open meeting to which the public is invited.*"; and

On page 15, after line 8, by inserting the following:

"Section 7. KRS 11A.110 is amended to read as follows:

The commission shall perform the following additional duties:

(1) On its own initiative or upon a signed request in writing, issue and publish advisory opinions on the requirements of this chapter for those who wish to use the opinion to guide their own conduct. If requested in writing by the person seeking the advisory opinion, the commission shall not release that person's name;

(2) Provide a continuing program of education, assistance, and information to public servants, including, but not limited to, publishing and making available to the persons subject to this chapter and the public explanatory information concerning this chapter, the duties imposed by it, and the means of enforcement;

(3) Promulgate administrative regulations in accordance with KRS Chapter 13A to implement this chapter;

(4) Prescribe forms for statements required by this chapter and furnish the forms to persons required to file the statements. The forms shall be adopted as administrative regulations or adopted by reference in an administrative regulation;

(5) Prepare and publish a manual of guidelines setting forth uniform methods of reporting for use by persons required to file under this chapter;

(6) Accept and file any information voluntarily supplied that exceeds the requirements of this chapter;

(7) Preserve the disclosure statements filed with it for four (4) years from the date of receipt;

(8) Make statements and reports filed with the commission available for public inspection and copying pursuant to KRS 61.870 to KRS 61.884 (Kentucky Open Records Law);

(9) Compile and maintain a current index of all statements filed with the commission to facilitate public access to the reports and statements;

(10) Prepare and publish reports as it may deem appropriate;

(11) Audit statements and reports filed with the commission;

(12) Make recommendations for legislation relating to governmental ethics and other matters included in this chapter as the commission deems desirable; and

(13) Prepare a biennial written report, no later than December 1 of each odd-numbered year, to the Legislative Research Commission, the Governor, and the public on the activities of the commission in the preceding two (2) fiscal years. The report shall contain the names and duties of each individual employed by the commission and a summary of commission determinations and advisory opinions. The commission shall prevent disclosure of the identity of a person involved in decisions or advisory opinions. The report may contain other information on matters within the commission's jurisdiction and recommendations for legislation as the commission deems desirable.

(14) Perform the duties prescribed in subsection (5) of Section 5 of this Act."; and

By renumbering subsequent sections to conform.

Floor Amendment No. 1 to the Committee Substitute to **HB 6**, by Representative Hoover:

HB 6, On page 17, line 9 delete "*for*" and insert in lieu thereof "*of Criminal*".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 1, Representative Bather

HB 2, Representative Bather

HB 13, Representative Vincent

HB 52, Representatives Vincent and Reinhardt

HB 55, Representatives Farmer, Harper, Harmon, Embry, Rader, Crimm, Stewart, Deweese, B. Smith, Feeley, Couch, Bruce, Yonts, Collins, J. Lee, and Pullin

HB 57, Representative Belcher

HB 69, Representative J. Thompson

HB 82, Representative Palumbo

HB 94, Representatives Nunn, J. Lee, Hoffman, and Damron

HB 95, Representative Cornett

HB 98, Representative Bather

HB 105, Representative Hoffman

HB 108, Representative Graham

HB 113, Representatives Denham, Collins, McKee, and Yonts

HB 116, Representative McKee

HB 148, Representative Palumbo

HB 225, Representative Yonts

HB 277, Representative T. Thompson

HB 295, Representative Yonts

HB 298, Representatives Meeks, Yonts, Burch, Jenkins, Bather, Edmonds, Webb, Nelson, Marzian, Cherry, Crenshaw, Riner, Haydon, Hoffman, Stein, and Hall

HB 299, Representatives Yonts, Burch, Jenkins, Webb, Bather, Nelson, Marzian, Crenshaw, Riner, Hoffman, Hall, and Meeks

HCR 4, Representative Collins

HCR 39, Representative Callahan

The following members filed requests to have their names be withdrawn as co-sponsors of Bills:

HB 13, Representative Yonts

HB 227, Representative Mobley

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 9:00 a.m., Friday, January 16, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 9:00 a.m., Friday, January 16, 2004, was adopted by voice vote.

FRIDAY, JANUARY 16, 2004

NINTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Father Al Fritsch, Good Shepherd Catholic Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Bather, Bratcher, Edmonds, Geveden, Hall, Haydon, and Nelson.

Olivia Brock sang.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 15, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage **SB 1** and **SB 15**. (Time: 9:05 a.m.)

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 305**

Appropriations and Revenue: **HB 297, 298, 299, 310**

Education: **HB 293, 309, 311**

Elections, Constitutional Amendments, and Intergovernmental Relations: **HB 306**

Health and Welfare: **HCR 78**

Judiciary: **HB 300, 302, 303, 308, 312, HJR 79**

Local Government: **HB 294, 307**

Natural Resources and Environment: **HB 301**

State Government: **HB 295, HR 76**

Tourism Development and Energy: **HB 296**

Transportation: **HB 304, HJR 82**

House Floor: **HR 75, 81**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Resolutions have been posted for Committee consideration:

Education: **HCR 66, 67**

Calendar

HB 50, 208, 52, 59, 82, 105, 148, and **157** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order. Representative Adkins moved that the rules be suspended for a Rules Committee report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 50, 82, 40,** and **HCR 30** have been posted for passage in the Regular Orders of the Day for January 20, 2004.

The Committee on Rules reported that the following Bills have been recommitted:

State Government: **HB 135**

Tourism Development and Energy: **HB 104**

Orders of the Day

HB 6, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of the Committee Substitute to **HB 6**. Agreed.

Representative Hoover moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 6**. Agreed.

Representative Damron moved that **HB 6**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 90, Nays 0**. (See January 16, 2004, roll call on **HB 6** - Appendix.)

HB 6, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 6**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 7, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of the Committee Substitute to **HB 7**. Agreed.

Representative Damron moved that **HB 7**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 90, Nays 0**. (See January 16, 2004, roll call on **HB 7** - Appendix.)

HB 7, by way of Committee Substitute, was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 7**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 23, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HCR 23** be adopted.

On the roll call the vote was: **Yeas 89, Nays 0**. (See January 16, 2004, roll call on **HCR 23** - Appendix.)

HCR 23 was adopted.

HCR 24, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved the adoption of the Committee Substitute to **HCR 24**. Agreed.

Representative Adkins moved that **HCR 24**, by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 89, Nays 0**. (See January 16, 2004, roll call on **HCR 24** - Appendix.)

HCR 24, by way of Committee Substitute, was adopted.

Representative Adkins moved that the vote by which **HCR 24**, by way of Committee Substitute, was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins moved that the following actions be taken:

HB 126 recommitted to the Committee on Licensing and Occupations

HB 270 reassigned to the Appropriations and Revenue Committee

HB 58 reassigned to the Appropriations and Revenue Committee and the posting waived

Representative Barrows moved the adoption of the following **HR 75**:

HR 75, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Pamela S. Johnson.

With deepest respect and admiration, we pay homage and tribute to Pamela S. Johnson, and we pause in silent reverence for her soul.

WHEREAS, Pamela S. Johnson was born on January 14, 1949, a native of Frankfort, Franklin County, Kentucky, and she traversed these earthly bounds on May 24, 2003; and

WHEREAS, Pamela S. Johnson was the loving daughter of the late Buddy and Lillian Hearn Smith; she was the devoted wife of David N. Johnson; she was the loving mother of a daughter, Tammi Jarboe of Lebanon; and a son, Bryan F. Johnson of Millville; and she was the proud grandmother of a granddaughter, Alyssa N. Johnson of Frankfort; and she also leaves behind a loving uncle and aunt, David and Nancy Taylor of Frankfort; and

WHEREAS, Pamela S. Johnson was an esteemed member of the Woodford County community, and she was a member of the Millville Christian Church; and

WHEREAS, Pamela S. Johnson began her impressive career with the Kentucky Retirement Systems in 1967; in 1970, she was promoted from clerk stenographer to Executive Secretary, in which position she worked directly with the General Manager and the Kentucky Retirement Systems Board of Trustees, and also served as the sole investment specialist and was responsible for the placement of buy and sell orders with brokers and balancing portfolios; in 1978, she became a Branch Manager in Benefits Counseling and was responsible for overseeing all retirement cases, including death, disability, early, and normal retirement, the publication of the first Summary Plan Description, the re-establishment of a quarterly newsletter to members, and the development of the first annual statements to members; in 1985, she was promoted to Deputy Commissioner of Benefits Services, where she oversaw the Benefits Counseling Branch and Records and Employer Services Branch, and she was also responsible for the development of legislative recommendations; in 1989, she was appointed General Manager of the retirement systems, and remained in that capacity until her retirement in February 2001; and

WHEREAS, we will remember Pamela S. Johnson for her dedication in improving the quality of life for both active and retired members of the Kentucky Retirement Systems, and we are also reminded that ethics and integrity played a large part toward her many achievements at the Kentucky Retirement Systems; and

WHEREAS, the passing of Pamela S. Johnson has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Pamela S. Johnson, and extends to her family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Pamela S. Johnson.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. David N. Johnson, 1900 Shore Acres Road, Frankfort, Kentucky 40601.

There being no objection **HR 75** was adopted.

On the roll call for co-sponsors the vote was: **Yeas 84.** (See January 16, 2004, roll call to show co-sponsors on **HR 75**-Appendix.)

Representative Burch moved to introduce and act upon a Resolution. Agreed.

Introduction of Bills and Resolutions

HR 83, by Representative Burch: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Mary Lou Heleringer.

Motions, Petitions, and Communications (Continued)

Representative Burch moved the adoption of the following **HR 83**:

HR 83, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Mary Lou Heleringer.

With deepest respect and admiration, we pay homage and tribute to Mary Lou Heleringer, and we pause in silent reverence for her soul.

WHEREAS, Mary Lou Heleringer was born on October 9, 1927, a native of Detroit, Michigan, and longtime resident of Louisville, Jefferson County, Kentucky, and she traversed these earthly bounds on January 13, 2004; and

WHEREAS, Mary Lou Heleringer was the loving daughter of Fidelis Fogarty O'Donnell and the late Leo G. O'Donnell; and she was also preceded in death by a loving son, Joseph F. Heleringer; she was the devoted wife of 53 years to Robert C. Heleringer; she was the loving mother of a son, Robert L. Heleringer, and four daughters, Margaret H. Healy of Fishers, Indiana; Nancy H. Wachs of Lexington, Kentucky; Mary Grace Westman of Hastings, Minnesota; and Diane H. Cashen of Lexington; she was the loving mother-in-law of Cindy Heleringer, Laurence Healy, William Wachs, James Westman, and Christopher Cashen; and she was the proud grandmother of Sarah, Ann, Tommy, and Philip Heleringer; Emily, Andrew, and Daniel Wachs; Jack, Martha, Theresa, Joseph, and Bobby Westman; and Henry, Peter, and Timothy Cashen; and

WHEREAS, Mary Lou Heleringer was an esteemed member of the Jefferson County community, where she owned, bred, and raced Thoroughbreds, and she was a member of the Thoroughbred Owners and Breeders Association; she was a loving and caring lady, and she will be sorely missed by all who had the good fortune of knowing her; and

WHEREAS, Mary Lou Heleringer was a devout member of St. Louis Bertrand Catholic Church, where her funeral Mass will be held on Saturday, January 17, 2004; and

WHEREAS, the passing of Mary Lou Heleringer has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Mary Lou Heleringer, and extends to her family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Mary Lou Heleringer.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Honorable Robert L. Heleringer, 14209 Glendower Drive, Louisville, Kentucky 40245.

There being no objection **HR 83** was adopted.

On the roll call for co-sponsors the vote was: **Yeas 84.** (See January 16, 2004, roll call to show co-sponsors on **HR 83**-Appendix.)

Representative Kerr moved the adoption of the following **Legislative Citation No. 11**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory and honor of William Bixler and joins with Representative Thomas Kerr in expressing profound sympathy to the Bixler Family and all those who share in the loss of this highly-regarded citizen. During the course of his illustrious and half-century career as an attorney who was described as a gentleman lawyer and who conducted his business in a manner that inspired respect from judges, fellow attorneys, law enforcement personnel, clients and all who were associated with him, he was a champion for the poor and believed deeply that everyone was entitled to a fair and impartial trial. Born in Frankfort, Kentucky, he served as a United States Marine who fought at Guadalcanal during World War II and the Chosin Reservoir in the Korean War, and was wounded three time in combat during his service to this Nation and its citizens. Educated at the University of Kentucky, he earned degrees in political science, psychology and law. Along with his skill and finesse as an attorney, he was a skilled magician and was a member, not only of the Kentucky Bar Association and the National Rifle Association, but also of the Psychic Entertainers Association, Queen City Mystics Assembly No 11, Society of American Magicians and International Brotherhood of Magicians. Survived by his wife, Brenda Bixler; daughters, Nebby McMahon and Nicole Bixler; stepsons, Joseph and James Havey; stepdaughter, Shannon Bradbury; sister Marguerite Harrod, six grandchildren, and, a host of other family members, friends and associates, this esteemed citizen is remembered on this day for the profound and generous contributions he made to his family, his community, and to this fine Commonwealth. William Bixler will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, Kentucky, this sixteenth day of January, in the year two thousand and four.

Legislative Citation No. 11 was adopted without objection.

Representative Comer moved the adoption of the following **Legislative Citation No. 7**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Harvie Lee Judd and respectfully joins with Representative James R. Comer, Jr., in expressing deepest sympathy to the Judd Family and all those who share in the loss of this distinguished citizen. The son of the late William and Mollie Roach Judd, he was preceded in death by his cherished wife, Mavis Bragg Judd; children, Charles and Ruth; and, siblings, Owen, Ernest, Millard, and Virginia. He is survived by his beloved children, Roger, Clayton, Calvin, Walter, Geneva, Margaret, and Janice; sisters, Dessie, Mary Helen, Martha, Florene, and Christine; nineteen grandchildren; two great-grandchildren; and, a host of other family members and loved ones. This esteemed citizen, a retired farmer and faithful member of the Prices Creek Baptist Church, is remembered on this day for the many and generous contributions he made to his family, friends and community. Harvie Lee Judd will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, Kentucky, this fourteenth day of January, in the year two thousand and four.

Legislative Citation No. 7 was adopted without objection.

Representative Webb moved the adoption of the following **HR 81**:

HR 81, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Captain Kimberly N. Hampton who perished in Iraq in January 2004.

WHEREAS, Captain Kimberly N. Hampton was the first female pilot to be killed in line of duty during Operation Iraqi Freedom; and

WHEREAS, Kimberly N. Hampton was the devoted daughter of Ann and Dale Hampton, of Easley, South Carolina; and

WHEREAS, Ms. Hampton was in the top ten of her graduating class and senior class president of her graduating class of the Easley High School Class of 1994; and

WHEREAS, it was said of Kimberly N. Hampton, that she was a "kind, confident woman known for excellence in everything she tried..."; and

WHEREAS, Ms. Hampton attended Presbyterian College on a full United States Army scholarship, majoring in English; and

WHEREAS, Ms. Hampton was an undefeated singles tennis star in the South Atlantic Conference and ranked 18th, nationwide, in doubles tennis; and

WHEREAS, Kimberly N. Hampton graduated with honors from Presbyterian College in 1998; and

WHEREAS, Kimberly N. Hampton was an honor graduate of the Fort Rucker Helicopter Flight School and Aviation Officer Basic Course; and

WHEREAS, Kimberly N. Hampton served as a platoon leader in the 4th Squadron of the 7th Cavalry, patrolling the Demilitarized Zone in Korea; and

WHEREAS, Kimberly N. Hampton graduated as an honor student from the Aviation Officer Advanced Course in 2002; and

WHEREAS, Kimberly N. Hampton was assigned to the 1st Squadron of the 17th Cavalry, under the control of the 82nd

Airborne Division, Fort Bragg, North Carolina; and

WHEREAS, Kimberly N. Hampton deployed with Joint Task Force 180 to serve in Afghanistan and served there with distinction; and

WHEREAS, she was soon deployed to Kuwait in anticipation of possible combat in Iraq, as Troop leader of D Troop, 1st Squadron of the 17th Cavalry in August 2003; and

WHEREAS, Kimberly N. Hampton was piloting an OH-58 Kiowa, near Fallujah, Iraq, when her helicopter was struck by ground fire and brought down; and

WHEREAS, Kimberly N. Hampton subsequently died of wounds received that day while flying protection for other American forces; and

WHEREAS, those who knew Captain Hampton said, "She was definitely doing something that she loved"; and

WHEREAS, the passing of Captain Kimberly N. Hampton has left a void that cannot be filled, and she is mourned by her parents, her brothers- and sisters-in-arms, and the citizens of the United States;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its utter and most profound sense of loss and bereavement upon the death of Captain Hampton. We extend to the family of Captain Kimberly Hampton our heartfelt sympathy and condolences.

Section 2. When the House of Representatives adjourns this January 17, 2004, it does so in loving memory and honor of Captain Kimberly N. Hampton who perished in January 2004.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Commanding General of the 82nd Airborne Division, Major General Charles Swannack, Fort Bragg, North Carolina 28310, and to Lieutenant Colonel Terry Morgan, Acting Commander 1/17th Cavalry, Building C-8960, Fort Bragg, North Carolina 28310.

There being no objection **HR 81** was adopted.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions. Agreed.

Introductions of Bills and Resolutions (Continued)

HB 313, by Representatives Crall and Hoover: AN ACT relating to window tinting on motor vehicles.

HB 314, by Representative Lindsay: AN ACT relating to the Kentucky Rules of Evidence.

HB 315, by Representatives Sims, Riggs, Riner, Cherry, Denham, Weaver, R. Adams, J. Lee, Moberly, Horlander, Coleman, Buckingham, Belcher, and Damron: AN ACT relating to vulnerable adults.

HB 316, by Representatives Stein and Marzian: AN ACT relating to the inheritance and estate tax.

HR 84, by Representatives Stein and Bruce: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Paul C. Van Booven.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 240, 249, 58**

Natural Resources: **HCR 63**

Agriculture and Small Business: **HB 283**

Judiciary: **HB 43, 112, 231, HCR 13**

Motions, Petitions, and Communications (Continued)

Representative Comer moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Comer moved that he be recorded as voting "yea" on **HB 4, 94, 97, 113, 225, HCR 29,** and 39. Agreed.

Representative Wilkey moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Wilkey moved that he be recorded as voting "yea" on **HB 4, 94, 97, 113, 225, HCR 29,** and **39**. Agreed.

Representative Graham moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Graham moved that he be recorded as voting "yea" on **HR 75**. Agreed.

Floor Amendments

Floor Amendment No. 1 to **HB 187**, by Representative Feeley:

HB 187, On page 1, by deleting lines 6 to 10 and inserting the following in lieu thereof:

"*(a)* Remain in continuous employment of the agency by which they were employed as of December 1, 1998 *and who are employed by another law enforcement agency subject to the provisions of KRS 15.380 to 15.404, relating to inactive status, within the period of time specified by KRS 15.380 to 15.404*, or"; and

On page 1, line 11, by deleting "*(c)*" and inserting "*(b)*".

Floor Amendment No. 1 to the Committee Substitute to **HB 50**, by Representative Hoover:

HB 50, On page 1, at line 3, after the word "*papers,*", by adding the words "*candidates for the General Assembly,*"; and

On page 1, at line 13, after the word "*office*", by adding the words "*or the General Assembly*".

Floor Amendment No. 3 to the Committee Substitute to **HB 1**, by Representative Richards:

HB 1, On page 7, line 18, after "*Lieutenant Governor,*" by inserting "*Secretary of State, Attorney General, Treasurer, Commissioner of Agriculture, Auditor of Public Accounts,*"; and

On page 7, line 21, after "*Lieutenant Governor,*" by inserting "*Secretary of State, Attorney General, Treasurer, Commissioner of Agriculture, Auditor of Public Accounts,*"; and

On page 7, line 25, after "*Lieutenant Governor,*" by inserting "*Secretary of State, Attorney General, Treasurer, Commissioner of Agriculture, Auditor of Public Accounts,*"; and

On page 8, line 1, before "*This*" by inserting "*Subsection (1) of*"; and

On page 8, line 10, by deleting Section 5 in its entirety and inserting in lieu thereof the following new Section 5:

"Section 5. KRS 18A.111 is amended to read as follows:

(1) Except when appointed to a job classification with an initial probationary period in excess of six (6) months, and except as provided in KRS 18A.005 *and this section*, an employee shall serve a six (6) months probationary period when he is initially appointed to the classified service. An employee may be separated from his position, reduced in class or rank, or replaced on the eligible list during this initial probationary period and shall not have a right to appeal, except as provided by KRS 18A.095. The employee may be placed on an eligible list but shall not be certified to the agency from which he was separated unless that agency so requests. Unless the appointing authority notifies the employee prior to the end of the initial probationary period that he is separated, the employee shall be deemed to have served satisfactorily and shall acquire status in the classified service.

(2) An employee who satisfactorily completes the initial probationary period for the position to which he was initially appointed to the classified service shall be granted status and may not be demoted, disciplined, dismissed, or otherwise penalized, except as provided by the provisions of this chapter.

(3) An employee ordered reinstated by the board shall not be required to serve a probationary period unless the board rules otherwise.

(4) An employee with status, who has been promoted, shall serve a promotional probationary period of six (6) months, except for those employees granted leave in excess of twenty (20) consecutive work days during this period. Such probationary periods shall be extended as prescribed in KRS 18A.005. During this period, he shall retain the rights and privileges granted by the provisions of this chapter to status employees.

(5) An employee with status may request that he be reverted to a position in his former class at any time during the promotional probationary period.

(6) A laid-off employee who accepts a bona fide written offer of appointment to a position shall not be required to serve an initial probationary period. He shall be an employee with status and shall have all rights and privileges granted employees with status under the provisions of this chapter.

(7) A former unclassified employee under the provisions of paragraphs (d), (e), (f), (g), (h) and (i) of subsection (1) of Section 6 of this Act shall serve an initial probationary period of twelve (12) months if the employee is appointed to a

position in the classified service unless that employee had previously had status in the classified service or had been separated from his or her previous unclassified position for at least one hundred and eighty (180) days prior to the effective date of his or her appointment to the classified service."; and

On page 15, line 8, after the period, by inserting "***This limitation shall not apply to principal assistants appointed by the Secretary of State, Attorney General, Treasurer, Commissioner of Agriculture, and the Auditor of Public Accounts.***".

Floor Amendment No. 1 to **HB 156**, by Representative Riggs:

HB 156, On page 1, line 9, after the words "all of the" insert "***sworn***";

On page 1, line 9, after the word "members" insert "***, dispatchers,***";

On page 1, line 9, after the word "and" insert "***telecommunicators***";

On page 1, line 9, bracket and strike through the word "employees";

On page 1, lines 17 through 19, remove all bracketing and strike throughs;

On page 1, line 17, after the word "***force***" insert "***. Employees shall***";

On page 1, line 19, after the word "duty", bracket and strike through the word "or";

On page 1, line 19, before the word "improper" insert a "***,***";

On page 1, line 19, after the word "conduct" and before the ".", add the following: "***or due to budgetary constraints***".

Floor Amendment No. 1 to the Committee Substitute to **HB 148**, by Representative Burch:

HB 148, On page 1, by deleting lines 15 through 17 in their entirety and inserting the following in lieu thereof:

"***(1) For purposes of this section and Section 4 of this Act, unless the context requires otherwise:***

(a) "Competitive food" means any food sold to children in food service areas in competition with the School Breakfast Program or the National School Lunch Program, or both; and

(b) "School day" means the period of time between the arrival of the first student at the school building and the end of the last instructional period.".

Floor Amendment No. 2 to the Committee Substitute to **HB 148**, by Representative Nunn:

HB 148, On page 1, by deleting lines 15 through 17 in their entirety and inserting the following in lieu thereof:

"***(1) For purposes of this section and Section 4 of this Act, unless the context requires otherwise:***

(a) "Competitive food" means any food sold to children in food service areas in competition with the School Breakfast Program or the National School Lunch Program, or both; and

(b) "School day" means the period of time between the arrival of the first student at the school building and the end of the last instructional period.".

Floor Amendment No. 1 to the Committee Substitute to **HB 105**, by Representative J. Lee:

HB 105, On page 3, lines 8 and 9, by deleting the following: "***, who resides in a certified Supports for Community Living Program***"; and

On page 8, line 25, after the period, by inserting the following: "***Either the attorney-client or the clergy-penitent privilege shall be a ground for refusing to report under this subsection and for excluding evidence in any judicial proceedings resulting from a report under this subsection.***" and

On page 9, line 4, after the period, by inserting the following: "***Either the attorney-client or the clergy-penitent privilege shall be a ground for refusing to report under this subsection and for excluding evidence in any judicial proceedings resulting from a report under this subsection.***" and

On page 23, line 6, after "***members***" by inserting the following: "***. The term does not include actions in good faith to discharge a patient under regulatory authority***".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 7, Representative Crenshaw

HB 55, Representative Cherry

HB 69, Representatives T. Thompson and Webb

HB 80, Representative Cherry

HB 94, Representatives Westrom and J. Adams

HB 97, Representative Comer

HB 108, Representative P. Clark

HB 148, Representatives Marzian and Jenkins

HB 157, Representative Buckingham

HB 200, Representative Horlander

The following member filed a request to have his name withdrawn as a co-sponsor of a Bill.

HB 58, Representative Adkins

Announcements

The following meetings were announced:

Committee on State Government: Tuesday, January 20, 2004, 2:00 p.m.

Committee on Local Government: Tuesday, January 20, 2004, 1:00 p.m.

Committee on Seniors, Military Affairs, and Public Safety: No Meeting Tuesday, January 20, 2004

Committee on Natural Resources and Environment: Tuesday, January 20, 2004, 2:00 p.m., Room 129

Committee on Labor and Industry: No Meeting Tuesday, January 20, 2004

Committee on Appropriations and Revenue: Tuesday, January 20, 2004, 12:00 Noon

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 4:00 p.m., Tuesday, January 20, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 4:00 p.m., Tuesday, January 20, 2004, was adopted by voice vote.

TUESDAY, JANUARY 20, 2004

TENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Jana Hall, First Presbyterian Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Vincent and Upchurch.

Olivia Marie Henken sang.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 16, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 317, by Representative Sims: AN ACT designating the official state repertory theater.

HB 318, by Representatives Draud, Baugh, Feeley, Brinkman, Buckingham, Moberly, and Riggs: AN ACT relating to crimes and punishments.

HR 85, by Representatives T. Thompson, Gooch, and J. Arnold: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Martin David Warren Sr.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and a Resolution:

Appropriations and Revenue: **HB 316**

Judiciary: **HB 314**

Seniors, Military Affairs, and Public Safety: **HB 315**

Transportation: **HB 313**

House Floor: **HR 84**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Health and Welfare: **HB 260, 149, 213, 159**

Report of Committees

The Committee on Local Government reported **HB 19**, **HB 20**, with Committee Substitute attached thereto, **HB 109**, with Committee Substitute and Committee Amendment attached thereto, and **HB 202**, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 19, AN ACT relating to the insurance premium tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.080 is amended to read as follows:

(1) The legislative body of each city, county, or urban-county government which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance may enact or change its license

fee or rate of tax to be effective July 1 of each year on a prospective basis only and shall file with the commissioner of insurance at least one hundred (100) days prior to the effective date, a copy of all ordinances and amendments which impose any such license fee or tax. No less than eighty-five (85) days prior to the effective date, the commissioner of insurance shall promptly notify each insurance company engaged in the business of insurance in the Commonwealth of those city, county, or urban-county governments which have elected to impose the license fees or taxes and the current amount of the license fee or rate of tax.

(2) Any license fee or tax imposed by a city, county, or urban-county government upon an insurance company with respect to life insurance policies, may be based upon the first year's premiums, and, if so based, shall be applied to the amount of the premiums actually collected within each calendar quarter upon the lives of persons residing within the corporate limits of the city, county, or urban-county government.

(3) Any license fee or tax imposed by a city, county, or urban-county government upon any insurance company with respect to any policy which is not a life insurance policy shall be based upon the premiums actually collected by the company within each calendar quarter on risks located within the corporate limits of the city, county, or urban-county government on those classes of business which the company is authorized to transact, less all premiums returned to policyholders. In determining the amount of license fee or tax to be collected and to be paid to the city, county, or urban-county government, the insurance company shall use the tax rate effective on the first day of the policy term. When an insurance company collects a premium as a result of a change in the policy during the policy term, the tax rate used shall be the rate in effect on the effective date of the policy change. With respect to premiums returned to policyholders, the license fee or tax shall be returned by the insurance company to the policyholder pro rata on the unexpired amount of the premium at the same rate at which it was collected and shall be taken as a credit by the insurance company on its next quarterly report to the city, county, or urban-county government. Any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or the death of their employees, caused thereby, under the provisions of the Workers' Compensation Act.

(4) The Department of Insurance shall, by administrative regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting the tax, except that the collection fee shall not be more than fifteen percent (15%) of the fee or tax collected and remitted to the city, county or urban-county government or two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection, and remittance of the fee or tax and collection fee provided in this section, the fees or taxes set out in subsection (1), (2), or (3) of this section, together with the collection fee in this section, may be rounded off to the nearest dollar amount.

(5) Pursuant to KRS 304.3-270, if any other state retaliates against any Kentucky domiciliary insurer because of the requirements of this section, the commissioner of insurance shall impose an equal tax upon the premiums written in this state by insurers domiciled in the other state.

(6) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by administrative regulations promulgated by the Department of Insurance.

(7) Upon written request of the legislative body of any city, county, or urban-county government, at the expense of the requesting city, county, or urban-county government, which shall be paid in advance by the city, county, or urban-county government to the Department of Insurance, the Department of Insurance shall examine, or cause to be examined by contract with qualified auditors, the books or records of the insurance companies or agents subject to the fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of the examination shall be reported to the city, county, or urban-county government. Willful failure to properly collect and remit the fee or tax imposed by a city, county, or urban-county government pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(8) The license fees or taxes provided for by subsections (2) and (3) of this section shall be due thirty (30) days after the end of each calendar quarter. Annually, by March 31, each insurer shall furnish each city, county, or urban-county government to which the tax or fee is remitted with a breakdown of all collections in the preceding calendar year for the following categories of insurance:

(a) Casualty;
(b) Automobile;
(c) Inland marine;
(d) Fire and allied perils;
(e) Health; and
(f) Life.

(9) Any license fee or tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid. Such interest payable to the city, county, or urban-county government is separate of penalties provided for in subsection (7) of this section. No city, county, or urban-county government may impose any penalties other than those provided for in this subsection.

(10) No license fee or tax imposed under this section shall apply to premiums received on policies of group health insurance

provided for state employees under KRS 18A.225.

(11) No county may impose the tax authorized by this section upon the premiums received on policies issued to public service companies which pay ad valorem taxes.

(12) (a) Insurance companies which pay license fees or taxes pursuant to this section shall credit city license fees or taxes against the same license fees or taxes levied by the county, when the license fees or taxes are levied by the county on or after July 13, 1990.

(b) If a county imposed and collected the license fee or tax authorized by this section before July 1, 2000, then insurance companies that pay license fees or taxes under this section shall not credit against the county license fee or tax that portion of a city license fee or tax that becomes effective for the first time on or after July 1, 2000, or is increased effective on or after July 1, 2000. The provisions of this paragraph shall expire on June 30, 2002, unless extended by the General Assembly.

(13) No license fee or tax imposed under this section shall apply to premiums received on health insurance policies issued to individuals nor to policies issued through Kentucky Access created in KRS 304.17B-005.

(14) No license fee or tax imposed under this section shall apply to premiums paid to insurers of municipal bonds, leases, or other debt instruments issued by or on behalf of a city, county, charter county government, urban-county government, consolidated local government, special district, nonprofit corporation, or other political subdivision of the Commonwealth. However, this exemption shall not apply if the bonds, leases, or other debt instruments are issued for profit or on behalf of for-profit or private organizations.

HB 20, AN ACT relating to the identification of certified volunteer firefighters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

(1) The Commission on Fire Protection Personnel Standards and Education shall implement a statewide certified volunteer firefighter identification program. The program shall issue a color photo nondriver's identification card to all certified volunteer firefighters. The purpose of this identification card shall be solely as proof of a volunteer firefighter's claim to be a certified volunteer firefighter upon joining a volunteer fire department.

(2) (a) Application for a certified volunteer firefighter identification card or renewal of the identification card shall be on forms provided by the commission and accompanied by a statement from the commission that the applicant is a certified volunteer firefighter.

(b) The card shall contain the certified volunteer firefighter's name, the firefighter's birth date, and address. The card shall not contain the certified volunteer firefighter's Social Security number.

(c) The commission shall set a four dollar ($4) fee for the certified volunteer firefighter identification card and the renewal of this card. Two dollars ($2) of the fee shall be used to cover the commission's cost for equipment and supplies. Two dollars ($2) of the fee shall be an administrative fee of the circuit clerk for issuing the card which shall be deposited by the Administrative Office of the Courts into a trust and agency account for the circuit clerks and used for the purposes of hiring additional deputy clerks and providing salary adjustments to deputy clerks.

(d) The card shall expire every year on the certified volunteer firefighter's birthday.

(3) The descriptive data and a photo image of the certified volunteer firefighter shall be stored in the Kentucky Driver's License Information System and may be retrieved and used by public agencies subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. sec. 2721, and may also be used by the Kentucky Missing Persons Clearinghouse.

(4) The commission shall establish policies, procedures, and forms for both the application and the identification card by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A.

The Committee Substitute to **HB 20** is as follows:

HB 20, AN ACT relating to the identification of certified volunteer firefighters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

(1) The Commission on Fire Protection Personnel Standards and Education shall implement a voluntary statewide certified volunteer firefighter identification program. The program shall issue a color photo nondriver's identification card to all certified volunteer firefighters. The purpose of this identification card shall be solely as proof of a volunteer firefighter's claim to be a certified volunteer firefighter upon joining a volunteer fire department.

(2) (a) Application for a certified volunteer firefighter identification card or renewal of the identification card shall be on forms provided by the commission and accompanied by a statement from the commission that the applicant is a certified volunteer firefighter.

(b) The card shall contain the certified volunteer firefighter's name, the firefighter's birth date, and address. The card shall not contain the certified volunteer firefighter's Social Security number.

(c) The commission shall set a four dollar ($4) fee for the certified volunteer firefighter identification card and the renewal of this card. Two dollars ($2) of the fee shall be used to cover the commission's cost for equipment and supplies. Two dollars ($2) of the fee shall be an administrative fee of the circuit clerk for issuing the card which shall be deposited by the Administrative Office of the Courts into a trust and agency account for the circuit clerks and used for the purposes of hiring additional deputy clerks and providing salary adjustments to deputy clerks.

(d) The card shall expire every year on the certified volunteer firefighter's birthday.

(3) The descriptive data and a photo image of the certified volunteer firefighter shall be stored in the Kentucky Driver's License Information System and may be retrieved and used by public agencies subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. sec. 2721, may be used by the Kentucky Missing Persons Clearinghouse, and may also be obtained and used by news gathering organizations.

(4) The commission shall establish policies, procedures, and forms for both the application and the identification card by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A.

HB 109, AN ACT relating to interlocal agreements.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 65.182 TO 65.190 IS CREATED TO READ AS FOLLOWS:

(1) A fiscal court may dissolve a taxing district if all or a portion of the services have been provided by the entering into a valid interlocal agreement to provide such services. If the district is located in more than one (1) county, the fiscal court of each county containing a portion of the district must vote to dissolve the district before the dissolution may take effect.

(2) The fiscal court shall schedule a public hearing on the matter of dissolution and advertise the hearing as provided in KRS 424.130.

(3) At the hearing, the burden of proving that the district should be maintained shall be upon the taxing district's board of directors.

(4) Within sixty (60) days following the hearing, the fiscal court shall set forth its written findings of fact in approving or disapproving the dissolution of the taxing district. If the fiscal court determines to dissolve a district, it shall determine a method to satisfy any legal obligations of the district which might be affected thereby. Upon satisfaction of its legal obligations, the district shall be legally dissolved, any special ad valorem tax imposed by the district shall be removed from the tax rolls by the county clerk, and any assets of the district shall be assumed by the county.

SECTION 2. A NEW SECTION OF KRS CHAPTER 174 IS CREATED TO READ AS FOLLOWS:

(1) The secretary of the Transportation Cabinet shall cause to be established in the State Treasury a special fund to be known as the intercounty road maintenance fund, to be administered by the secretary. The fund shall be comprised of one-sixth of one percent (1/6%) of all funds arising from the imposition of taxes provided by KRS 138.220, 138.660, and 234.320. Moneys in the fund shall not lapse at the end of the fiscal year.

(2) When the secretary determines that a proposed local government plan for the construction, reconstruction, and maintenance of county roads and bridges in counties that have entered into a valid interlocal agreement for the provision of road and bridge construction, reconstruction, and maintenance services across county boundaries would serve the public interest, he or she may use moneys from the intercounty road maintenance fund to aid counties in specific projects of road and bridge construction, reconstruction, and maintenance, provided that counties must provide matching funds for the project. The Transportation Cabinet may grant an amount up to one hundred thousand dollars ($100,000) for any one (1) project, which amount shall not exceed fifty percent (50%) of the cost of the entire project.

(3) In September of each year, the secretary shall determine the amount of funds available for distribution by December 31 of that same year. The secretary may prescribe standards for determining the amounts to be granted for county projects and promulgate any administrative regulations in accordance with the provisions of KRS Chapter 13A as may be necessary to implement the provisions of this section. Funds granted by the cabinet shall be spent by the counties only for road and bridge construction, reconstruction, and maintenance.

Section 3. KRS 65.260 is amended to read as follows:

(1) No agreement made pursuant to KRS 65.210 to 65.300 shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made pursuant to KRS 65.210 to 65.300, that performance may be offered in satisfaction of the obligation or responsibility.

(2) Except as provided in subsections (3)*, (7),* and *(8)*~~[(4)]~~ of this section, every agreement made pursuant to KRS 65.210 to 65.300 shall, prior to and as a condition precedent to its entry into force, be submitted to the Attorney General who shall

determine whether the agreement is in proper form and compatible with the laws of this state~~[, except for interlocal agreements between cities, counties, charter counties, urban county governments, and sheriffs upon approval of the fiscal court, which shall be submitted to the Department for Local Government]~~. The Attorney General~~[or the Department for Local Government]~~ shall approve any agreement submitted~~[to them]~~ under this subsection unless ***he or she finds***~~[they find]~~ that it does not meet the conditions set forth in KRS 65.210 to 65.300. If the agreement does not meet these conditions, the Attorney General~~[or the Department for Local Government]~~ shall detail in writing, addressed to the governing bodies of the public agencies concerned, the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within sixty (60) days of its submission shall constitute approval thereof.

(3) *Except as provided in subsections (7) and (8) of this section, every agreement made between cities, counties, charter counties, urban-county governments, consolidated local governments, sheriffs, and special districts upon approval of the fiscal court and pursuant to KRS 65.210 to 65.300 shall, prior to and as a condition precedent to its entry into force, be submitted to the Department for Local Government which shall determine whether the agreement is in proper form and compatible with the laws of the Commonwealth. The Department for Local Government shall approve any agreement submitted to it under this subsection unless it finds that it does not meet the conditions set forth in KRS 65.210 to 65.300. If the agreement does not meet these conditions, the Department for Local Government shall detail in writing, addressed to the governing bodies of the public agencies concerned, the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement within sixty (60) days of its submission shall constitute approval of the agreement.*

(4) The Department for Local Government shall provide an initial review of every interlocal agreement where one (1) or more of the parties entering into the agreement is a city, county, charter county, urban-county government, consolidated local government, sheriff, or special district, but where not all the parties entering into the agreement are cities, counties, charter counties, urban-county governments, consolidated local governments, sheriffs, special districts or political subdivisions of the Commonwealth of Kentucky.

(5) The Department for Local Government shall maintain a log of all interlocal agreements submitted for review. The log shall note the date of receipt of the agreement, the final status of the review agreement, the nature of the agreement, the duration of the agreement, and the date of the termination of the agreement, if the agreement expires or is terminated.

(6) The Department for Local Government shall create and maintain a document outlining the potential benefits of interlocal agreements and the procedure for their creation. This document may be either published or in an electronic format. The document shall outline explain the Department's procedures for review of interlocal agreements and the time frame for review.

(7) The submission of an interlocal cooperative agreement to the Attorney General or the Department for Local Government as provided in subsection (2) of this section shall not be required for any cooperative agreement which involves only the construction, reconstruction, or maintenance of a municipal road or bridge, provided a written agreement is approved by each of the affected governing bodies.

(8)~~[(4)]~~ Interlocal cooperative agreements between school boards and counties shall be exempt from the provisions of subsection (2) of this section.

Section 4. KRS 147A.021 is amended to read as follows:

(1) The Department for Local Government shall have the following powers and duties:

(a) To require any reports from local governments that will enable it adequately to provide the technical and advisory assistance authorized by this section.

(b) To encourage, conduct, or participate in training courses in procedures and practices for the benefit of local officials, and in connection therewith, to cooperate with associations of public officials, business and professional organizations, university faculties, or other specialists.

(c) To request assistance and information, which shall be provided by all departments, divisions, boards, bureaus, commissions, and other agencies of state government to enable the department to carry out its duties under this section.

(d) At its discretion, to compile and publish annually a report on local government.

(2) The Department for Local Government shall coordinate for the Governor the state's responsibility for, and shall be responsible for liaison with the appropriate state and federal agencies with respect to, the following programs:

(a) Demonstration cities and metropolitan development act as amended with the exception of Title I of the Housing and Community Development Act of 1974 as amended through 1981;

(b) Farmers Home Administration;

(c) Veterans Administration Act as amended, as it pertains to housing.

(3) The Department for Local Government shall provide technical assistance and information to units of local government, including but not limited to:

(a) Personnel administration;
(b) Ordinances and codes;
(c) Community development;
(d) Appalachian Regional Development Program;
(e) Economic Development Administration Program;
(f) Intergovernmental Personnel Act Program;
(g) Land and Water Conservation Fund Program;
(h) Area Development Fund Program;
(i) Gas System Restoration Project;
(j) Joint Funding Administration Program;
(k) State clearinghouse for A-95 review;
(l) The memorandums of agreement with the area development districts to provide management assistance to local governments; and
(m) *The creation of interlocal agreements and an explanation of their benefits; and*
(n) The urban development office.

(4) The Department for Local Government shall exercise all of the functions of the state local finance officer provided in KRS Chapters 66, 68, and 131 relating to the control of funds of counties, cities, and other units of local government.

(5) Upon request of the Administrative Office of the Courts, the Department for Local Government shall evaluate the financial condition of any local unit of government selected to participate in a court facilities construction or renovation project under KRS 26A.160 and shall certify to the Administrative Office of the Courts the local unit of government's ability to participate in the project.

The Committee Substitute to **HB 109** is as follows:

HB 109, AN ACT relating to interlocal agreements.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 65.182 TO 65.190 IS CREATED TO READ AS FOLLOWS:

(1) A fiscal court may dissolve a taxing district if all or a portion of the services have been provided by the entering into a valid interlocal agreement to provide such services. If the district is located in more than one (1) county, the fiscal court of each county containing a portion of the district must vote to dissolve the district before the dissolution may take effect.

(2) The fiscal court shall schedule a public hearing on the matter of dissolution and advertise the hearing as provided in KRS 424.130.

(3) At the hearing, the burden of proving that the district should be maintained shall be upon the taxing district's board of directors.

(4) Within sixty (60) days following the hearing, the fiscal court shall set forth its written findings of fact in approving or disapproving the dissolution of the taxing district. If the fiscal court determines to dissolve a district, it shall determine a method to satisfy any legal obligations of the district which might be affected thereby. Upon satisfaction of its legal obligations, the district shall be legally dissolved, any special ad valorem tax imposed by the district shall be removed from the tax rolls by the county clerk, and any assets of the district shall be assumed by the county.

SECTION 2. A NEW SECTION OF KRS CHAPTER 174 IS CREATED TO READ AS FOLLOWS:

(1) The secretary of the Transportation Cabinet shall cause to be established in the State Treasury a special fund to be known as the intercounty road maintenance fund, to be administered by the secretary. The fund shall be comprised of one-sixth of one percent (1/6%) of all funds arising from the imposition of taxes provided by KRS 138.220, 138.660, and 234.320. Moneys in the fund shall lapse at the end of the fiscal year. Moneys in the fund are hereby appropriated for the purposes provided in this section.

(2) When the secretary determines that a proposed local government plan for the construction, reconstruction, and maintenance of county roads and bridges in counties that have entered into a valid interlocal agreement for the provision of road and bridge construction, reconstruction, and maintenance services across county boundaries would serve the public interest, he or she may use moneys from the intercounty road maintenance fund to aid counties in specific projects of road and bridge construction, reconstruction, and maintenance, provided that counties must provide matching funds for the project. The Transportation Cabinet may grant an amount up to one hundred thousand dollars ($100,000) for any one (1) project, which amount shall not exceed fifty percent (50%) of the cost of the entire project.

(3) In September of each year, the secretary shall determine the amount of funds available for distribution by December 31 of that same year. The secretary may prescribe standards for determining the amounts to be granted for county projects and promulgate any administrative regulations in accordance with the provisions of KRS Chapter 13A as may be necessary to implement the provisions of this section. Funds granted by the cabinet shall be spent by the counties only for road and bridge construction, reconstruction, and maintenance.

Section 3. KRS 65.260 is amended to read as follows:

(1) No agreement made pursuant to KRS 65.210 to 65.300 shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made pursuant to KRS 65.210 to 65.300, that performance may be offered in satisfaction of the obligation or responsibility.

(2) Except as provided in subsections (3)***, (7),*** and ***(8)***[~~(4)~~] of this section, every agreement made pursuant to KRS 65.210 to 65.300 shall, prior to and as a condition precedent to its entry into force, be submitted to the Attorney General who shall determine whether the agreement is in proper form and compatible with the laws of this state[~~, except for interlocal agreements between cities, counties, charter counties, urban-county governments, and sheriffs upon approval of the fiscal court, which shall be submitted to the Department for Local Government~~]. The Attorney General[~~ or the Department for Local Government~~] shall approve any agreement submitted[~~ to them~~] under this subsection unless ***he or she finds***[~~they find~~] that it does not meet the conditions set forth in KRS 65.210 to 65.300. If the agreement does not meet these conditions, the Attorney General[~~ or the Department for Local Government~~] shall detail in writing, addressed to the governing bodies of the public agencies concerned, the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within sixty (60) days of its submission shall constitute approval thereof.

(3) ***Except as provided in subsections (7) and (8) of this section, every agreement made between cities, counties, charter counties, urban-county governments, consolidated local governments, sheriffs, and special districts upon approval of the fiscal court and pursuant to KRS 65.210 to 65.300 shall, prior to and as a condition precedent to its entry into force, be submitted to the Department for Local Government which shall determine whether the agreement is in proper form and compatible with the laws of the Commonwealth. The Department for Local Government shall approve any agreement submitted to it under this subsection unless it finds that it does not meet the conditions set forth in KRS 65.210 to 65.300. If the agreement does not meet these conditions, the Department for Local Government shall detail in writing, addressed to the governing bodies of the public agencies concerned, the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement within sixty (60) days of its submission shall constitute approval of the agreement.***

(4) The Department for Local Government shall provide an initial review of every interlocal agreement where one (1) or more of the parties entering into the agreement is a city, county, charter county, urban-county government, consolidated local government, sheriff, or special district, but where not all the parties entering into the agreement are cities, counties, charter counties, urban-county governments, consolidated local governments, sheriffs, special districts or political subdivisions of the Commonwealth of Kentucky.

(5) The Department for Local Government shall maintain a log of all interlocal agreements submitted for review. The log shall note the date of receipt of the agreement, the final status of the review agreement, the nature of the agreement, the duration of the agreement, and the date of the termination of the agreement, if the agreement expires or is terminated.

(6) The Department for Local Government shall create and maintain a document outlining the potential benefits of interlocal agreements and the procedure for their creation. This document may be either published or in an electronic format. The document shall outline explain the Department's procedures for review of interlocal agreements and the time frame for review.

(7) The submission of an interlocal cooperative agreement to the Attorney General or the Department for Local Government as provided in subsection (2) of this section shall not be required for any cooperative agreement which involves only the construction, reconstruction, or maintenance of a municipal road or bridge, provided a written agreement is approved by each of the affected governing bodies.

(8)[~~(4)~~] Interlocal cooperative agreements between school boards and counties shall be exempt from the provisions of subsection (2) of this section.

Section 4. KRS 147A.021 is amended to read as follows:

(1) The Department for Local Government shall have the following powers and duties:

(a) To require any reports from local governments that will enable it adequately to provide the technical and advisory assistance authorized by this section.

(b) To encourage, conduct, or participate in training courses in procedures and practices for the benefit of local officials, and in connection therewith, to cooperate with associations of public officials, business and professional organizations, university faculties, or other specialists.

(c) To request assistance and information, which shall be provided by all departments, divisions, boards, bureaus, commissions, and other agencies of state government to enable the department to carry out its duties under this section.

(d) At its discretion, to compile and publish annually a report on local government.

(2) The Department for Local Government shall coordinate for the Governor the state's responsibility for, and shall be responsible for liaison with the appropriate state and federal agencies with respect to, the following programs:

(a) Demonstration cities and metropolitan development act as amended with the exception of Title I of the Housing and Community Development Act of 1974 as amended through 1981;

(b) Farmers Home Administration;

(c) Veterans Administration Act as amended, as it pertains to housing.

(3) The Department for Local Government shall provide technical assistance and information to units of local government, including but not limited to:

(a) Personnel administration;

(b) Ordinances and codes;

(c) Community development;

(d) Appalachian Regional Development Program;

(e) Economic Development Administration Program;

(f) Intergovernmental Personnel Act Program;

(g) Land and Water Conservation Fund Program;

(h) Area Development Fund Program;

(i) Gas System Restoration Project;

(j) Joint Funding Administration Program;

(k) State clearinghouse for A-95 review;

(l) The memorandums of agreement with the area development districts to provide management assistance to local governments;~~[and]~~

(m) *The creation of interlocal agreements and an explanation of their benefits; and*

(n) The urban development office.

(4) The Department for Local Government shall exercise all of the functions of the state local finance officer provided in KRS Chapters 66, 68, and 131 relating to the control of funds of counties, cities, and other units of local government.

(5) Upon request of the Administrative Office of the Courts, the Department for Local Government shall evaluate the financial condition of any local unit of government selected to participate in a court facilities construction or renovation project under KRS 26A.160 and shall certify to the Administrative Office of the Courts the local unit of government's ability to participate in the project.

Section 5. In order to promote efficiency and speed aid to counties, an emergency is declared to exist, and this Act takes effect July 1, 2004.

The Committee Amendment No. 1 Title to **HB 109** is as follows:

HB 109, Amend the title to read as follows: "AN ACT relating to interlocal agreements, making an appropriation therefor and declaring an emergency."

HB 202, AN ACT relating to sewer systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of any other law, rule, or regulation notwithstanding, if any city, county, public body corporate or politic, or special district or subdistrict furnishes or proposes to furnish sewage treatment utility services to customers of another sewage treatment utility by means of all or any part of the installations owned or paid for by that other sewage treatment utility, then the city, county, public body, district, or subdistrict taking over or proposing to take over the customers shall pay just compensation for these installations prior to the time the customers are taken over. If an agreement for compensation is not reached, then just compensation for the installations shall be payable by the city, county, public body, district, or subdistrict after condemnation as provided for in the Eminent Domain Act of Kentucky.

(2) There is hereby granted to any city, county, public body corporate or politic, or special district or subdistrict the power of eminent domain with respect to sewage treatment plants, facilities, and installations owned by sewage treatment

utilities. This power of eminent domain shall be exercisable in the manner prescribed by the Eminent Domain Act of Kentucky.

(3) Any city, county, public body corporate or politic, or special district or subdistrict shall be entitled to surcharge customers so as to recover the amount of compensation paid for installations acquired under this section by agreement or condemnation.

Section 2. The following KRS section is repealed:

65.115 Compensation for sewage treatment utility property -- Eminent domain -- Surcharge to customers.

The Committee on Natural Resources and Environment reported **HCR 15** and **HCR 20** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HCR 15, A CONCURRENT RESOLUTION confirming the appointment of Bayard Collier as a member and chair of the Mine Safety Review Commission.

WHEREAS, KRS 351.1041 requires the Governor to appoint the three members of the Mine Safety Review Commission, subject to the consent of the Senate and the House of Representatives in accordance with KRS 11.160; and

WHEREAS, on September 4, 2003, the Governor appointed Bayard Collier as a member and chair of the Mine Safety Review Commission by Executive Order 2003-900 to serve a term expiring May 23, 2007; and

WHEREAS, the House of Representatives and the Senate find that Bayard Collier meets the requirements of KRS 351.1041, having the qualifications of Judge of the Court of Appeals, except for residence in a district;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate consent to the appointment of Bayard Collier as a member of the Mine Safety Review Commission, for a term expiring May 23, 2007.

Section 2. The Clerk of the House of Representatives shall notify the Governor and the appointee of the General Assembly's action, by forwarding a copy of this Resolution and written notification of its adoption to the Governor of Kentucky, Room 100, State Capitol, Frankfort, Kentucky 40601 and to Mr. Bayard Collier, 395 Walters Road, Pikeville, Kentucky 41501.

HCR 20, A CONCURRENT RESOLUTION in support of the issuance of a commemorative U.S. Postal Service stamp honoring America's coal miners.

WHEREAS, coal miners keep the nation supplied with an energy resource that produces electricity for the lowest cost, when compared to fuels other than nuclear, which makes possible the country's unmatched productivity and prosperity; and

WHEREAS, coal miners provide a vital pool of labor with the expertise to produce energy supplies from vast national coal reserves, which serves to buffer the country from a dangerous dependence on foreign energy fuels; and

WHEREAS, because of Kentucky's long and proud tradition as a preeminent supplier of the nation's coal supplies, we wish to be counted alongside the United Mine Workers of America and the many others seeking the proper recognition of the role played by coal miners in the history of the country;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Citizens' Stamp Advisory Committee of the U.S. Postmaster General is urged to recommend for issuance as soon as practicable a U.S. Postal Service stamp commemorating the vital role of coal miners in the history and economic productivity of the country. The stamp would commemorate a class of American laborers who in their immigrant origins reflect the melting pot ideals of the nation, who with their manual labor make possible the technological conveniences of modern American life, and, whose contributions to the nation's welfare is generally unknown to the public. A stamp commemorating coal miners holds the promise of illustrating a colorful and historically rich segment of society for the benefit of schoolchildren, stamp collectors, educators, and the public.

Section 2. This Resolution shall be sent to the U.S. Postmaster General and to the Citizens' Stamp Advisory Committee, c/o Stamp Development, U.S. Postal Service, 475 L'Enfant SW, Room 5670, Washington, D.C. 20260-2437.

The Committee on Appropriations and Revenue reported **HB 249**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 249, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the Revenue Cabinet;

(3) "Internal Revenue Code" means*:*

- *(a)* The Internal Revenue Code in effect on December 31, 2001, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2001, that would otherwise terminate, and as modified by KRS 141.0101; *and*
- *(b) The provisions of the Military Family Tax Relief Act of 2003, Pub. L. No. 108-121, effective on the date specified in that Act;*

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

- (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;
- (b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;
- (c) Include interest income derived from obligations of sister states and political subdivisions thereof;
- (d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;
- (e) Exclude Social Security and railroad retirement benefits subject to federal income tax;
- (f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;
- (g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;
- (h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam;
- (i) 1. Exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.
  - 2. The "applicable amount" shall be:
    - a. Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars ($6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;
    - b. Fifty percent (50%), but not more than twelve thousand five hundred dollars ($12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;
    - c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars ($18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and
    - d. One hundred percent (100%), but not more than thirty-five thousand dollars ($35,000), for taxable years beginning after December 31, 1997.

3. As used in this paragraph:
   a. "Distributions" includes, but is not limited to, any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;
   b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and
   c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;

(j) 1. a. Exclude the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and

b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.

2. The shareholder's basis of stock held in a S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;

(k) Exclude for taxable years beginning after December 31, 1998, to the extent not already excluded from gross income, any amounts paid for health insurance, or the value of any voucher or similar instrument used to provide health insurance, which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section;

(l) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;

(m) Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;

(n) Exclude any capital gains income attributable to property taken by eminent domain;

(o) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;

(p) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement; and

(q) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202, minus any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families, and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

(c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(i) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;

(j) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement; and

(k) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202, minus any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families, and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction;

(d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue

Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and

(e) "Taxable net income" in the case of a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

Section 2. The Military and Family Tax Relief Act of 2003, Pub. L. No. 108-121, includes several effective dates, some of which are retroactive. The effective dates as set forth in Pub. L. No. 108-121 shall apply to the adoption of Pub. L. No. 108-121 pursuant to this Act.

The Committee Amendment No. 1 to **HB 249** is as follows:

HB 249, On page 1, line 11, by deleting the word "*date*" and inserting in lieu thereof "*dates*".

The Committee on State Government reported **HB 49, HB 167, HB 188,** with Committee Substitute attached thereto, and **HCR 16,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 49, AN ACT relating to an annual report to citizens on the finances, operations, and management of state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.110 is amended to read as follows:

(1) The Governor shall prepare and submit to the Legislative Research Commission annual reports of the finances and operations of the state and such other reports as the General Assembly may prescribe or as the Governor may desire. The head of each statutory department shall make to the Governor an annual report and may at any time be required by the Governor to make any special report concerning the work under his charge, with his observations and recommendations thereon and pertinent statistics concerning the work of the department, each of which the Governor shall transmit to the Legislative Research Commission with such comments as he may desire to make. All such annual reports shall observe the fiscal year of the state as the reporting year, and shall be published to the extent ordered in writing by the Governor. Twenty-five (25) copies of each report shall be filed with the Legislative Research Commission for availability to the members of the General Assembly upon request. Additional copies of any report shall be made available to the Legislative Research Commission at no charge if the requests for said report exceed twenty-five (25).

(2) Agencies shall file all annual and biennial reports required by law to be made by agencies with the Governor, and a copy thereof in the office of the Secretary of State, which shall be preserved as a public record.

(3) (a) The Office of the State Budget Director shall prepare and issue a brief, clear, and concise annual report for each fiscal year ending June 30 to the citizens of the Commonwealth on the financial highlights, operation, and

management of state government. The report shall be entitled "Annual Report to Kentucky Taxpayers." The report shall be issued no later than September 30 of each year and shall include but not be limited to the following information:

1. An organizational chart for each branch of government;

2. Revenues, by source, and expenditures for each major organizational unit of state government;

3. A brief description and summary of statistical data on major programs and services funded by appropriations of the General Assembly; and

4. A brief statement by the Governor of the Commonwealth, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Kentucky Supreme Court on the condition of the Commonwealth.

(b) The use of charts, tables, graphs, and other visual representations of data in the report is encouraged where deemed to enhance understanding.

(c) The report shall be made available electronically on the state website and shall remain on the state website until it is replaced by the following year's report.

HB 167, AN ACT relating to the Kentucky Native American Heritage Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Native American Heritage Commission is hereby established to promote, in partnership with the Education, Arts and Humanities Cabinet, awareness of significant Native American influences within the historical and cultural experiences of Kentucky.

(2) The membership of the commission shall consist of seventeen (17) members who derive from geographically diverse areas of the state and who represent various heritage interests as follows:

(a) The Secretary of the Education, Arts and Humanities Cabinet, or the secretary's designee;

(b) Three (3) members from institutions of higher learning;

(c) Two (2) members from the preservation or archeological communities;

(d) One (1) member from the arts community; and

(e) Ten (10) members from the public-at-large, eight (8) of whom shall be of Native American heritage.

(3) Members listed in paragraphs (b) to (e) of subsection (2) of this section shall be appointed by the Governor and shall serve for terms of four (4) years. Any vacancy shall be filled by appointment of the Governor for the remainder of the unexpired term.

(4) Commission members shall receive no compensation for their services but may be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(5) From the commission membership, the Governor shall appoint a chair and vice chair of the commission. The commission may elect by majority vote other officers deemed necessary.

(6) The commission shall meet at least three (3) times per year. Notice of the time and location of each meeting shall be provided in writing to each member at least ten (10) days in advance of the meeting.

(7) A majority of the members present shall constitute a quorum.

(8) Committees may be formed at the discretion of the chair.

(9) The commission may seek and accept grants or raise funds from any available source, public or private, to accomplish its duties and responsibilities.

(10) The commission shall be attached for administrative purposes to the Kentucky Heritage Council, whose responsibilities shall include but not be limited to designating a staff person to coordinate commission staff needs and providing other staff and services as needed for the commission to perform its duties under Section 2 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

The duties of the Kentucky Native American Heritage Commission shall be to:

(1) Advise the Education, Arts and Humanities Cabinet, the Kentucky Heritage Council, and the Kentucky General Assembly on matters relating to Native American heritage;

(2) Encourage other public and private agencies within the areas of the arts, humanities, and sciences to incorporate the Native American influence when developing programs on the history and heritage of Kentucky;

(3) Represent a network of groups and individuals interested, or actively involved, in promoting awareness of Native American heritage in Kentucky;

(4) Support the preservation, conservation, and interpretation of significant buildings, sites, structures, documents, artifacts, and lifestyles that represent and embody Native American heritage; and

(5) Recognize and sanction projects that advance wider knowledge of Native Americans' contributions to, and influence and impact on, life in Kentucky.

Section 3. KRS 2.230 is amended to read as follows:

(1) The month of November of each year shall be observed in Kentucky as "Native American Indian Month" and during this month schools, clubs, and civic and religious organizations are encouraged to recognize the contributions of Native American Indians with suitable ceremony and fellowship designed to promote greater understanding and brotherhood between Native American Indians and the non-Native American Indian people of the Commonwealth of Kentucky.

(2) The Governor shall, prior to the first day of November of each year, issue a proclamation inviting and urging the people of the Commonwealth to observe Native American Indian Month with suitable ceremony and fellowship.

(3) The Kentucky Department of Education, Kentucky Heritage Council, and the Native American Heritage Commission established *in Section 1 of this Act*[~~by Executive Order 96-272~~] shall, within the limits of funds available for this purpose, make information available to all people of this Commonwealth regarding Native American Indian Month and the observance thereof.

HB 188, AN ACT relating to public records.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.878 is amended to read as follows:

(1) The following public records are excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction, except that no court shall authorize the inspection by any party of any materials pertaining to civil litigation beyond that which is provided by the Rules of Civil Procedure governing pretrial discovery:

(a) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy;

(b) Records confidentially disclosed to an agency and compiled and maintained for scientific research. This exemption shall not, however, apply to records the disclosure or publication of which is directed by another statute;

(c) 1. Upon and after July 15, 1992, records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records;

2. Upon and after July 15, 1992, records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which are compiled and maintained:

a. In conjunction with an application for or the administration of a loan or grant;

b. In conjunction with an application for or the administration of assessments, incentives, inducements, and tax credits as described in KRS Chapter 154;

c. In conjunction with the regulation of commercial enterprise, including mineral exploration records, unpatented, secret commercially valuable plans, appliances, formulae, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person; or

d. For the grant or review of a license to do business.

3. The exemptions provided for in subparagraphs 1. and 2. of this paragraph shall not apply to records the disclosure or publication of which is directed by another statute;

(d) Public records pertaining to a prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the Commonwealth. This exemption shall not include those records pertaining to application to agencies for permits or licenses necessary to do business or to expand business operations within the state, except as provided in paragraph (c) of this subsection;

(e) Public records which are developed by an agency in conjunction with the regulation or supervision of financial institutions, including but not limited to, banks, savings and loan associations, and credit unions, which disclose the agency's internal examining or audit criteria and related analytical methods;

(f) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made by or for a public agency relative to acquisition of property, until such time as all of the property has been acquired. The law of eminent domain shall not be affected by this provision;

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination before the exam is given or if it is to be given again;

(h) Records of law enforcement agencies or agencies involved in administrative adjudication that were compiled in the process of detecting and investigating statutory or regulatory violations if the disclosure of the information would harm the agency by revealing the identity of informants not otherwise known or by premature release of information to be used in a prospective law enforcement action or administrative adjudication. Unless exempted by other provisions of KRS 61.870 to 61.884, public records exempted under this provision shall be open after enforcement action is completed or a decision is made to take no action; however, records or information compiled and maintained by county attorneys or Commonwealth's attorneys pertaining to criminal investigations or criminal litigation shall be exempted from the provisions of KRS 61.870 to 61.884 and shall remain exempted after enforcement action, including litigation, is completed or a decision is made to take no action. The exemptions provided by this subsection shall not be used by the custodian of the records to delay or impede the exercise of rights granted by KRS 61.870 to 61.884;

(i) Preliminary drafts, notes, correspondence with private individuals, other than correspondence which is intended to give notice of final action of a public agency;

(j) Preliminary recommendations, and preliminary memoranda in which opinions are expressed or policies formulated or recommended;

(k) All public records or information the disclosure of which is prohibited by federal law or regulation;[~~and~~]

(l) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly*; and*

(m) 1. Public records the disclosure of which would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act and limited to:

a. Criticality lists resulting from consequence assessments;

b. Vulnerability assessments;

c. Antiterrorism protective measures and plans;

d. Counter-terrorism measures and plans;

e. Security and response needs assessments;

f. Infrastructure records that disclose the location, configuration, or security of critical systems, including but not limited to information technology, communication, electrical, fire suppression, ventilation, water, and wastewater systems; and

g. Detailed drawings, schematics, maps, or specifications of structural elements, floor plans, and operating, utility, or security systems of any building or facility owned, occupied, leased, or maintained by a public agency.

2. As used in this paragraph, "terrorist act" means a criminal act intended to:

a. Intimidate or coerce a public agency or all or part of the civilian population;

b. Disrupt a system identified in paragraph (m)1.f. of this subsection; or

c. Cause massive destruction to a building or facility owned, occupied, leased, or maintained by a public agency.

(2) No exemption in this section shall be construed to prohibit disclosure of statistical information not descriptive of any readily identifiable person.

(3) No exemption in this section shall be construed to deny, abridge, or impede the right of a public agency employee, including university employees, an applicant for employment, or an eligible on a register to inspect and to copy any record including preliminary and other supporting documentation that relates to him. The records shall include, but not be limited to, work plans, job performance, demotions, evaluations, promotions, compensation, classification, reallocation, transfers, layoffs, disciplinary actions, examination scores, and preliminary and other supporting documentation. A public agency employee, including university employees, applicant, or eligible shall not have the right to inspect or to copy any examination or any documents relating to ongoing criminal or administrative investigations by an agency.

(4) If any public record contains material which is not excepted under this section, the public agency shall separate the excepted and make the nonexcepted material available for examination.

(5) The provisions of this section shall in no way prohibit or limit the exchange of public records or the sharing of information between public agencies when the exchange is serving a legitimate governmental need or is necessary in the performance of a legitimate government function.

The Committee Substitute to **HB 188** is as follows:

HB 188, AN ACT relating to public records.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.878 is amended to read as follows:

(1) The following public records are excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction, except that no court shall authorize the inspection by any party of any materials pertaining to civil litigation beyond that which is provided by the Rules of Civil Procedure governing pretrial discovery:

(a) Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy;

(b) Records confidentially disclosed to an agency and compiled and maintained for scientific research. This exemption shall not, however, apply to records the disclosure or publication of which is directed by another statute;

(c) 1. Upon and after July 15, 1992, records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records;

2. Upon and after July 15, 1992, records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which are compiled and maintained:

a. In conjunction with an application for or the administration of a loan or grant;

b. In conjunction with an application for or the administration of assessments, incentives, inducements, and tax credits as described in KRS Chapter 154;

c. In conjunction with the regulation of commercial enterprise, including mineral exploration records, unpatented, secret commercially valuable plans, appliances, formulae, or processes, which are used for the making, preparing, compounding, treating, or processing of articles or materials which are trade commodities obtained from a person; or

d. For the grant or review of a license to do business.

3. The exemptions provided for in subparagraphs 1. and 2. of this paragraph shall not apply to records the disclosure or publication of which is directed by another statute;

(d) Public records pertaining to a prospective location of a business or industry where no previous public disclosure has been made of the business' or industry's interest in locating in, relocating within or expanding within the Commonwealth. This exemption shall not include those records pertaining to application to agencies for permits or licenses necessary to do business or to expand business operations within the state, except as provided in paragraph (c) of this subsection;

(e) Public records which are developed by an agency in conjunction with the regulation or supervision of financial institutions, including but not limited to, banks, savings and loan associations, and credit unions, which disclose the agency's internal examining or audit criteria and related analytical methods;

(f) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made by or for a public agency relative to acquisition of property, until such time as all of the property has been acquired. The law of eminent domain shall not be affected by this provision;

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination before the exam is given or if it is to be given again;

(h) Records of law enforcement agencies or agencies involved in administrative adjudication that were compiled in the process of detecting and investigating statutory or regulatory violations if the disclosure of the information would harm the agency by revealing the identity of informants not otherwise known or by premature release of information to be used in a prospective law enforcement action or administrative adjudication. Unless exempted by other provisions of KRS 61.870 to 61.884, public records exempted under this provision shall be open after enforcement action is completed or a decision is made to take no action; however, records or information compiled and maintained by county attorneys or Commonwealth's attorneys pertaining to criminal investigations or criminal litigation shall be exempted from the provisions of KRS 61.870 to 61.884 and shall remain exempted after enforcement action, including litigation, is completed or a decision is made to take no action. The exemptions provided by this subsection shall not be used by the custodian of the records to delay or impede the exercise of rights granted by KRS 61.870 to 61.884;

(i) Preliminary drafts, notes, correspondence with private individuals, other than correspondence which is intended to give notice of final action of a public agency;

(j) Preliminary recommendations, and preliminary memoranda in which opinions are expressed or policies formulated or recommended;

(k) All public records or information the disclosure of which is prohibited by federal law or regulation;[~~ and~~]

(l) Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential by enactment of the General Assembly*; and*

(m) 1. Public records the disclosure of which would have a reasonable likelihood of threatening the public safety by exposing a vulnerability in preventing, protecting against, mitigating, or responding to a terrorist act and limited to:

a. Criticality lists resulting from consequence assessments;

b. Vulnerability assessments;

c. Antiterrorism protective measures and plans;

d. Counter-terrorism measures and plans;

e. Security and response needs assessments;

f. Infrastructure records that expose a vulnerability referred to in this subparagraph through the disclosure of the location, configuration, or security of critical systems, including but not limited to information technology, communication, electrical, fire suppression, ventilation, water, and wastewater systems; and

g. The following records when their disclosure will expose a vulnerability referred to in this subparagraph: detailed drawings, schematics, maps, or specifications of structural elements, floor plans, and operating, utility, or security systems of any building or facility owned, occupied, leased, or maintained by a public agency.

2. As used in this paragraph, "terrorist act" means a criminal act intended to:

a. Intimidate or coerce a public agency or all or part of the civilian population;

b. Disrupt a system identified in subparagraph 1.f. of this paragraph; or

c. Cause massive destruction to a building or facility owned, occupied, leased, or maintained by a public agency.

3. No public agency shall invoke this paragraph to exclude public records from disclosure without first obtaining authorization from the executive director of the Office for Security Coordination or the executive director's designee.

(2) No exemption in this section shall be construed to prohibit disclosure of statistical information not descriptive of any readily identifiable person.

(3) No exemption in this section shall be construed to deny, abridge, or impede the right of a public agency employee, including university employees, an applicant for employment, or an eligible on a register to inspect and to copy any record including preliminary and other supporting documentation that relates to him. The records shall include, but not be limited to, work plans, job performance, demotions, evaluations, promotions, compensation, classification, reallocation, transfers, layoffs, disciplinary actions, examination scores, and preliminary and other supporting documentation. A public agency employee, including university employees, applicant, or eligible shall not have the right to inspect or to copy any examination or any documents relating to ongoing criminal or administrative investigations by an agency.

(4) If any public record contains material which is not excepted under this section, the public agency shall separate the excepted and make the nonexcepted material available for examination.

(5) The provisions of this section shall in no way prohibit or limit the exchange of public records or the sharing of information between public agencies when the exchange is serving a legitimate governmental need or is necessary in the performance of a legitimate government function.

HCR 16, A CONCURRENT RESOLUTION urging the Legislative Research Commission to adopt the provisions of the Governor's Executive Order 2001-1084 relating to domestic violence and sexual assault in the public workplace.

WHEREAS, as awareness about domestic violence and sexual assault has grown, so has the recognition that these crimes have a major impact in the workplace; and

WHEREAS, domestic violence and sexual assault adversely affect not only the victim and the victim's family but also the victim's employer, managers, and co-workers through the loss of productivity, increased absenteeism, increased health care costs, and employee turnover; and

WHEREAS, the Commonwealth of Kentucky, as an employer, is committed not only to providing a work environment for its employees that is free of violence and intimidation, but also to creating a sensitive and safe environment for those employees who are the victims of domestic violence or sexual assault; and

WHEREAS, the Governor and First Lady have developed a model policy for the executive branch, as set forth in the document "Domestic Violence and Sexual Assault in the Public Workplace: *A Kentucky Model Policy*"; and

WHEREAS, the model policy for the executive branch consists of: (1) zero tolerance toward perpetrators; (2) assistance for victims who need time off for medical appointments, legal assistance, court appearances, relocation, or other arrangements for their personal safety, or who have performance problems as a direct result of the crime against them; and (3) use of prevention and intervention strategies to prevent or minimize the occurrence and devastating effects of these crimes; and

WHEREAS, the Governor, in Executive Order 2001-1084, dated August 24, 2001, established certain principles for program cabinets to follow in implementing the model policy; and

WHEREAS, the Secretary of State, the Attorney General, the State Auditor, the State Treasurer, and the Commissioner of

Agriculture have also implemented the policy; and

WHEREAS, the General Assembly likewise is committed to providing a work environment for its employees that is safe from violence and intimidation and that provides a sensitive and safe environment for any employee who is a victim of domestic violence or sexual assault; and

WHEREAS, the General Assembly desires that the Legislative Research Commission continue to refine its policy of zero tolerance toward perpetrators and a safe and secure work environment for its employees; and

WHEREAS, the General Assembly recognizes the value and benefit of prevention and intervention strategies that will not only protect its employees but will also provide a sensitive environment and appropriate assistance for an employee who is a victim;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is hereby urged to join the executive branch and the statewide constitutional officers in adopting for its employees the following provisions of the Governor's Executive Order 2001-1084 relating to implementation of the Kentucky Model Policy for domestic violence and sexual assault in the public workplace:

"(1) The Commonwealth of Kentucky declares that domestic violence and sexual assault are strictly prohibited and constitute a major violation of state policy. Domestic violence and sexual assault include, but are not limited to harassment or the display of violence or threatening behavior that may result in physical or emotional injury to any state employee while in state offices, facilities, work sites, vehicles, or while conducting state business.

(2) All employees who are victims of domestic or sexual violence should have access to immediate assistance. This assistance shall, at a minimum, include: crisis intervention information provided in a private environment for victims and a workplace safety plan that has as its purpose the reduction of risk to the victim and other employees.

(3) All employees deserve consideration when seeking to protect themselves from abuse. All program agencies should allow adjustment of work schedules and the use of accrued or unpaid leave in order to allow a victimized employee to obtain medical treatment, legal assistance, or make other arrangements to ensure safety.

(4) State employees who commit acts of domestic or sexual violence shall be held accountable for their action. Agencies shall take prompt and appropriate disciplinary action against any employee who: misuses state resources to perpetrate domestic or sexual violence; harasses, threatens, or commits an act of domestic or sexual violence in the workplace or while conducting state business or using state resources; is convicted of a crime of domestic violence or a sex crime while on state business or using state resources, or is adjudicated as having violated a civil order of protection due to an incident of domestic or sexual violence when such action has a direct connection to the individual's duties as a state employee.

(5) Penalizing or disciplining employees solely based on their status as a victim of domestic and sexual violence is inappropriate and will not be tolerated.

(6) Agencies shall post resource information on domestic violence and sexual assault in locations where employees can obtain it without having to request it."

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Rules Committee report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 52, 59,** and **18** have been posted for passage in the Regular Orders of the Day for January 21, 2004.

Orders of the Day

HB 152, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of Committee Amendment No. 1 to **HB 152**. Agreed.

Representative Moberly moved that **HB 152**, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See January 20, 2004, roll call on **HB 152** - Appendix.)

HB 152, as amended, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 152**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 187, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Feeley moved the adoption of Floor Amendment No. 1 to **HB 187**. Agreed.

Representative J. Thompson moved that **HB 187**, as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See January 20, 2004, roll call on **HB 187** - Appendix.)

HB 187, as amended, was passed and the title agreed to.

Representative J. Thompson moved that the vote by which **HB 187**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 14 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nelson moved that **HCR 14** be adopted.

On the roll call the vote was: **Yeas 93, Nays 0**. (See January 20, 2004, roll call on **HCR 14** - Appendix.)

HCR 14 was adopted.

Representative Nelson moved that the vote by which **HCR 14** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 82 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 82** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See January 20, 2004, roll call on **HB 82** - Appendix.)

HB 82 was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 82** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 40 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved that **HB 40** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See January 20, 2004, roll call on **HB 40** - Appendix.)

HB 40 was passed and the title agreed to.

Representative Yonts moved that the vote by which **HB 40** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 30 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HCR 30** be adopted.

On the roll call the vote was: **Yeas 93, Nays 0**. (See January 20, 2004, roll call on **HCR 30** - Appendix.)

HCR 30 was adopted.

Representative Adkins moved that the vote by which **HCR 30** was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, Communications

Representative Adkins moved that **HB 29** be recommitted to the Committee on Transportation. Agreed.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 319, by Representatives T. Thompson and Damron: AN ACT relating to establishing bank branches.

HB 320, by Representative Nunn: AN ACT relating to public contracts.

HB 321, by Representative Graham: AN ACT relating to the practice of dentistry.

HB 322, by Representative Burch: AN ACT relating to services for children with serious emotional disturbances.

HB 323, by Representative R. Adams: AN ACT relating to critical access hospitals and declaring an emergency.

HB 324, by Representatives Dw. Butler and J. Thompson: AN ACT relating to consumer protection.

HB 325, by Representative L. Clark: AN ACT relating to boards and commissions.

HB 326, by Representative Richards: AN ACT relating to state aeronautics programs.

HB 327, by Representative S. Lee: AN ACT relating to barber schools.

HB 328, by Representative Bratcher: AN ACT relating to county clerks.

HB 329, by Representative Bratcher: AN ACT relating to penalties for a violation of traffic regulations.

HB 330, by Representatives P. Clark, Meeks, and L. Clark: AN ACT relating to pupil transportation.

HB 331, by Representative P. Clark: AN ACT relating to airport safety and security.

HB 332, by Representative P. Clark: AN ACT relating to the operation of railroads.

HB 333, by Representative P. Clark: AN ACT relating to railroad employees.

HB 334, by Representative P. Clark: AN ACT relating to criminal procedure.

HB 335, by Representative P. Clark: AN ACT relating to criminal procedure.

HB 336, by Representative Thomas: AN ACT relating to animals.

HB 337, by Representative Jenkins: AN ACT relating to Medicaid and declaring an emergency.

HB 338, by Representatives Stein, Marzian, and Meeks: AN ACT relating to civil rights.

HB 339, by Representative Rader: AN ACT relating to property taxes and making an appropriation therefor.

HB 340, by Representatives Pullin, Nelson, Damron, Hall, Comer, Dw. Butler, Siler, Riggs, Hoffman, Jenkins, B. Smith, Stewart, and Cherry: AN ACT relating to the state health insurance group.

HB 341, by Representatives Jenkins, Thomas, Higdon, Graham, Feeley, Burch, Damron, Rand, and J. Adams: AN ACT relating to the practice of pharmacy.

HCR 86, by Representative P. Clark: A CONCURRENT RESOLUTION urging the United States Congress to mandate the Federal Railroad Administration to conduct a rule-making process on the use of unmanned remote control locomotives.

HCR 87, by Representatives Pasley, Thomas, McKee, A. Arnold, and Comer: A CONCURRENT RESOLUTION urging the members of the United States Congress to suspend the carry-forward adjustment provision relating to burley tobacco in the Agricultural Risk Protection Act of 2000.

Posting of Bills and Resolutions for Consideration (continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Agriculture and Small Business: **HB 127, 281, 286, 287, 305, HCR 26, 27, 35, 36**

Elections, Constitutional Amendments, and Intergovernmental Relations: **HB 306**

Motions, Petitions, and Communications (continued)

Representative Bruce moved to withdraw as a co-sponsor on **HB 108**. Agreed.

Representative Mobley moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Mobley moved that he be recorded as voting "yea" on **HB 6, 7, HCR 23,** and **HCR 24**. Agreed.

Representative Edmonds moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Edmonds moved that he be recorded as voting "yea" on **HB 6, 7, HCR 23, 24, 29,** and **39**. Agreed.

Representative Geveden moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Geveden moved that he be recorded as voting "yea" on **HB 6, 7, HCR 23** and **24**. Agreed.

Representative Westrom moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Westrom moved that he be recorded as voting "yea" on **HB 6, 7, HCR 23** and **24**. Agreed.

Representative Buckingham moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Buckingham moved that he be recorded as voting "yea" on **HB 40**. Agreed.

Representative Ballard moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ballard moved that he be recorded as voting "yea" on **HCR 30**. Agreed.

Representative Miller moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Miller moved that he be recorded as voting "yea" on **HB 152**. Agreed.

Floor Amendments

Floor Amendment No. 3 to the Committee Substitute **HB 148**, by Representative Burch:

HB 148, On page 1, by deleting lines 15 through 17 in their entirety and inserting the following in lieu thereof:

"*(1) For purposes of this section and Section 4 of this Act, unless the context requires otherwise:*

(a) "Competitive food" means any food or beverage item sold to children during the school day until thirty (30) minutes after the close of the last lunch period; and

(b) "School day" means the period of time between the arrival of the first student at the school building and the end of the last instructional period.".

Floor Amendment No. 4 to the Committee Substitute **HB 148**, by Representative Nunn:

HB 148, On page 1, by deleting lines 15 through 17 in their entirety and inserting the following in lieu thereof:

"*(1) For purposes of this section and Section 4 of this Act, unless the context requires otherwise:*

(a) "Competitive food" means any food or beverage item sold to children during the school day until thirty (30) minutes after the close of the last lunch period; and

(b) "School day" means the period of time between the arrival of the first student at the school building and the end of the last instructional period.".

Floor Amendment No. 1 to the Committee Substitute to **HB 200**, by Representative Collins:

HB 200, On page 1, after line 9, by inserting the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 317A IS CREATED TO READ AS FOLLOWS:

(1) For purposes of subsection (2) of this section, any person engaged in the practice of cosmetology or nail technology

who leases or rents space at a respective beauty salon or nail salon from the holder of a license to operate the beauty salon or nail salon shall be deemed an independent contractor.

(2) The board shall not hold the holder of a license to operate a beauty salon or nail salon responsible for violations of this chapter, or administrative regulations promulgated pursuant to this chapter, that are committed by an independent contractor.".

Floor Amendment No. 2 Title to **HB 200**, by Representative Collins:

HB 200, Amend title to read "AN ACT relating to independent contractors."

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 1, Representatives Yonts and Pasley

HB 2, Representatives Pasley and Yonts

HB 15, Representative Hall

HB 49, Representative Pasley

HB 50, Representative Pasley

HB 82, Representatives Horlander and P. Clark

HB 90, Representative Westrom

HB 94, Representative Dw. Butler

HB 113, Representatives Pullin, P. Clark, J. Thompson, Siler, Moberly, Westrom, De. Butler, Adkins, B. Smith, Thomas, Brinkman, Crall, Palumbo, Wilkey, and Stewart

HB 148, Representative Westrom

HB 160, Representative Westrom

HB 249, Representatives L. Clark and Hoffman

HB 261, Representative Westrom

HB 277, Representative Weaver

HB 303, Representative Crimm

HB 309, Representative Collins

HB 315, Representatives A. Arnold, Vincent, Rand, Farmer, Rader, Barrows, L. Clark, J. Arnold, Thomas, Callahan, Hoffman, Gray, and Marzian

HB 323, Representative Barrows

HCR 14, Representatives Bratcher, Denham, Comer, Couch, and Damron

Announcements

The following meetings were announced:

Committee on Transportation - Thursday, January 22, 2004, meeting canceled

Committee on Education - Wednesday, January 21, 2004, 8:27 a.m.

Committee on Tourism Development and Energy - Wednesday, January 21, 2004, 9:00 a.m. (instead of 8:00 a.m.)

Committee on Banking and Insurance - Wednesday, January 21, 2004, 10:00 a.m.

Budget Review Subcommittee on Economic Development - No meeting Wednesday, January 21, 2004

Budget Review Subcommittee on General Government - No meeting Wednesday, January 21, 2004

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 2:00 p.m., Wednesday, January 21, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 2:00 p.m., Wednesday, January 21, 2004, was adopted by voice vote.

WEDNESDAY, JANUARY 21, 2004

ELEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Alan Sorem, South Frankfort Presbyterian Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Ford.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 20, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 342, by Representative Burch: AN ACT relating to vaccination for meningococcal meningitis disease.

HB 343, by Representative Vincent: AN ACT relating to juries.

HR 88, by Representative Burch: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Robert L. Barnett Jr.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 336, HCR 87**

Appropriations and Revenue: **HB 323, 339**

Banking and Insurance: **HB 319, 324**

Education: **HB 330**

Health and Welfare: **HB 321, 322, 337**

Judiciary: **HB 318, 334, 335, 338**

Licensing & Occupations: **HB 327, 341**

Local Government: **HB 328**

State Government: **HB 320, 325, 340**

Tourism Development and Energy: **HB 317**

Transportation: **HB 326, 329, 331, 332, 333, HCR 86**

House Floor: **HR 85**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Health and Welfare: **HB 216**

Report of Committees

The Committee on Tourism Development and Energy reported **HCR 8,** with Committee Substitute attached thereto, **HCR 44, HCR 45,** and **HJR 64** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HCR 8, A CONCURRENT RESOLUTION directing the Legislative Research Commission to establish a task force to examine the development of the Lexington/Big Sandy Rail Trail, and suggest a strategy for its completion.

WHEREAS, the conversion of abandoned or unused railroad trails for pedestrian and nonmotorized use has become national policy through the National Trails Systems Act; and

WHEREAS, Rails to Trails projects throughout the United States have been shown to strengthen local economies through tourism and job development, preserve cultural and historic areas, protect natural green spaces, create family and individual recreational opportunities, preserve transportation options, encourage healthy lifestyles, and enhance community prosperity; and

WHEREAS, over 10,000 miles of rail-trails have been created across the country, but Kentucky has approximately 50 rail-trail miles; and

WHEREAS, the Lexington/Big Sandy Rail Trail was designated a Community Millennium Trail and has the potential to improve the quality of life for Kentucky citizens and connect communities stretching 109 miles from Lexington to Ashland;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission shall establish a task force to examine the development of the Lexington/Big Sandy Rail Trail and suggest a strategy for its completion. The task force shall be composed of 25 members, to be approved by the Legislative Research Commission, to include:

(1) The county judge/executive, or a designee, from the following counties:
  (a) Bath;
  (b) Boyd;
  (c) Carter;
  (d) Clark;
  (e) Montgomery; and
  (f) Rowan;
(2) The mayor, or a designee, from the following cities:
  (a) Grayson;
  (b) Lexington;
  (c) Morehead;
  (d) Mount Sterling;
  (e) Olive Hill; and
  (f) Winchester;
(3) The secretary, or a designee, from the following agencies:
  (a) Tourism Development Cabinet;
  (b) Cabinet for Economic Development;
  (c) Transportation Cabinet; and
  (d) Department for Local Government;
(4) The executive director of the Kentucky Heritage Council, or a designee;
(5) The Governor, or a designee;
(6) Six members of the General Assembly, three members appointed by the President of the Senate, and three members appointed by the Speaker of the House of Representatives. One of the Senate members shall be appointed co-chair by the President of the Senate, and one of the House of Representative members shall be appointed co-chair by the Speaker of the House of Representatives; and
(7) One member of the Kentucky Rails to Trails Council, suggested by the Kentucky Rails to Trails Council.

Section 2. The task force shall report its findings and recommendations to the Legislative Research Commission for referral to the appropriate committee or committees no later than December 15, 2002. The report shall include at least the following:

(1) Solutions for overcoming existing barriers to the trail's development;
(2) Potential funding sources to complete the trail;

(3) Projected date for completion of the trail;

(4) Recommendations on entities best suited to implement the strategy for the trail's completion; and

(5) Recommendations on entities best suited to administer the trail, in both the short and long term.

Section 3. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee Substitute to **HCR 8** is as follows:

HCR 8, A CONCURRENT RESOLUTION directing the Legislative Research Commission to establish a task force to examine the development of the Lexington/Big Sandy Rail Trail, and suggest a strategy for its completion.

WHEREAS, the conversion of abandoned or unused railroad trails for pedestrian and nonmotorized use has become national policy through the National Trails Systems Act; and

WHEREAS, Rails to Trails projects throughout the United States have been shown to strengthen local economies through tourism and job development, preserve cultural and historic areas, protect natural green spaces, create family and individual recreational opportunities, preserve transportation options, encourage healthy lifestyles, and enhance community prosperity; and

WHEREAS, over 10,000 miles of rail-trails have been created across the country, but Kentucky has approximately 50 rail-trail miles; and

WHEREAS, the Lexington/Big Sandy Rail Trail was designated a Community Millennium Trail and has the potential to improve the quality of life for Kentucky citizens and connect communities stretching 109 miles from Lexington to Ashland;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission shall establish a task force to examine the development of the Lexington/Big Sandy Rail Trail and suggest a strategy for its completion. The task force shall be composed of 25 members, to be approved by the Legislative Research Commission, to include:

(1) The county judge/executive, or a designee, from the following counties:
  (a) Bath;
  (b) Boyd;
  (c) Carter;
  (d) Clark;
  (e) Montgomery; and
  (f) Rowan;

(2) The mayor, or a designee, from the following cities:
  (a) Grayson;
  (b) Lexington;
  (c) Morehead;
  (d) Mount Sterling;
  (e) Olive Hill; and
  (f) Winchester;

(3) The secretary, or a designee, from the following agencies:
  (a) Tourism Development Cabinet;
  (b) Cabinet for Economic Development;
  (c) Transportation Cabinet; and
  (d) Department for Local Government;

(4) The executive director of the Kentucky Heritage Council, or a designee;

(5) The Governor, or a designee;

(6) Six members of the General Assembly, three members appointed by the President of the Senate, and three members appointed by the Speaker of the House of Representatives. One of the Senate members shall be appointed co-chair by the President of the Senate, and one of the House of Representative members shall be appointed co-chair by the Speaker of the House of Representatives; and

(7) One member of the Kentucky Rails to Trails Council, suggested by the Kentucky Rails to Trails Council.

Section 2. The task force shall report its findings and recommendations to the Legislative Research Commission for referral to the appropriate committee or committees no later than December 17, 2004. The report shall include at least the following:

(1) Solutions for overcoming existing barriers to the trail's development;
(2) Potential funding sources to complete the trail;
(3) Projected date for completion of the trail;
(4) Recommendations on entities best suited to implement the strategy for the trail's completion; and
(5) Recommendations on entities best suited to administer the trail, in both the short and long term.

Section 3. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

HCR 44, A CONCURRENT RESOLUTION urging the United States Congress to enact legislation requiring tighter regulations on indecent television and radio broadcasts.

WHEREAS, the Federal Communications Commission (FCC) is authorized by Congress to regulate broadcasting; and

WHEREAS, federal law prohibits the broadcasting of obscene programming and regulates the broadcasting of indecent programming; and

WHEREAS, the United States Supreme Court, in FCC v. Pacifica Foundation, 438 U.S. 726 (1978), said that "the broadcast media have established a uniquely pervasive presence in the lives of all Americans. Patently offensive, indecent material presented over the airwaves confronts the citizen, not only in public, but also in the privacy of the home, where the individual's right to be left alone plainly outweighs the First Amendment rights of an intruder"; and

WHEREAS, Congressman Doug Ose introduced the Clean Airwaves Act on December 8, 2003, which would prohibit seven profane words from being broadcast, and stated in his introduction, "Existing guidelines and standards that govern our airwaves and communications mediums allow profane language to infiltrate the hearts and minds of our nation's youth. I rise today to protect our children from existing rules and regulations that leave them vulnerable to obscene, indecent, and profane speech through broadcast communication"; and he went on to say that "[t]he current FCC guidelines regarding indecency determinations aren't strong enough to stop harmful, indecent, and profane language broadcast over America's airwaves"; and

WHEREAS, in January, 2003, the Golden Globe Awards show was broadcast live and Bono, the lead singer of the rock group U2, received an award and exclaimed, "This is really, really [expletive] brilliant"; and in October, 2003, the FCC ruled that the statement was neither indecent nor obscene; and

WHEREAS, in December, 2003, the Billboard Music Awards show was broadcast live, and Nicole Richie of the reality show "The Simple Life," used vulgar and offensive language before announcing a category of nominees;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The General Assembly of the Commonwealth of Kentucky urges the United States Congress to enact legislation requiring tighter regulations on indecent television and radio broadcasts.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to each member of the Kentucky Congressional delegation and the Clerk of the United States Congress.

HCR 45, A CONCURRENT RESOLUTION urging the Federal Communications Commission to impose tighter regulations on indecent television and radio broadcasts.

WHEREAS, the Federal Communications Commission (FCC) is authorized by Congress to regulate broadcasting; and

WHEREAS, federal law prohibits the broadcasting of obscene programming and regulates the broadcasting of indecent programming; and

WHEREAS, the United States Supreme Court, in FCC v. Pacifica Foundation, 438 U.S. 726 (1978), said that "the broadcast media have established a uniquely pervasive presence in the lives of all Americans. Patently offensive, indecent material presented over the airwaves confronts the citizen, not only in public, but also in the privacy of the home, where the individual's right to be left alone plainly outweighs the First Amendment rights of an intruder"; and

WHEREAS, Congressman Doug Ose introduced the Clean Airwaves Act on December 8, 2003, which would prohibit seven profane words from being broadcast, and stated in his introduction, "Existing guidelines and standards that govern our airwaves and communications mediums allow profane language to infiltrate the hearts and minds of our nation's youth. I rise today to protect our children from existing rules and regulations that leave them vulnerable to obscene, indecent, and profane speech through broadcast communication"; and he went on to say that "[t]he current FCC guidelines regarding indecency determinations aren't strong enough to stop harmful, indecent, and profane language broadcast over America's airwaves"; and

WHEREAS, in January, 2003, the Golden Globe Awards show was broadcast live and Bono, the lead singer of the rock group U2, received an award and exclaimed, "This is really, really [expletive] brilliant"; and in October, 2003, the FCC ruled that the statement was neither indecent nor obscene; and

WHEREAS, in December, 2003, the Billboard Music Awards show was broadcast live, and Nicole Richie of the reality show "The Simple Life," used vulgar and offensive language before announcing a category of nominees;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The General Assembly of the Commonwealth of Kentucky urges the Federal Communications Commission to impose tighter regulations on indecent television and radio broadcasts.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the five Commissioners of the Federal Communications Commission.

HJR 64, A JOINT RESOLUTION naming the Carter Caves State Resort Park's Lewis Caveland Lodge.

WHEREAS, for more than 125 years, the Carter Caves have held special historic interest and natural resource significance with visitors traveling first by horseback and later, in 1896, by excursion trains from Cincinnati; and

WHEREAS, since the dawn of the last century Carter County's community leaders recognized the cave land region's inestimable economic, cultural, environmental and historic value and unselfishly sought to share this treasure with all who traveled to Carter County; and

WHEREAS, in 1902, J.F. Lewis of Carter City bought the Carter Caves for a purchase price of $45,000, including about 1,000 acres of rugged land covered with virgin forest; and

WHEREAS, in 1924, the Lewis family and other community leaders including W.M. Tabor, R.M. Bagby, Dr. J. Watts Stovall, Thomas S. Yates, John M. Rose, J.A. Bagby and Wick H. Strother incorporated the Carter Caves Company, working to provide greater public access to the caves through a new road and other services; and

WHEREAS, in 1946, Grayson and Olive Hill's Rotary Clubs, in cooperation with the Carter Caves Company, undertook to secure a purchase option for the Carter Caves, and met with Governor Simeon Willis, who promised to received the purchase and develop a state park when funds became available; and

WHEREAS, Carter County's leaders raised the necessary funds in 60 days, an accomplishment noted in Carter County's Bicentennial Committee publication "Carter County History 1838 - 1976" as "an example of what a community can do when everyone works for a common goal"; and

WHEREAS, on July 31, 1946, the Carter Caves Company sold the caves to the Commonwealth of Kentucky for use as a Kentucky state park, in a deed executed by Carter County's Lewis family, including Ollie Lewis, President, and attested by Elwood C. Lewis, Secretary; and

WHEREAS, in the decades since that sale, the Commonwealth of Kentucky has promoted and expanded the Carter Caves park to include, in 1954, the 40-acre Smokey Hollow Lake renowned for largemouth bass, bluegill, catfish and crappie, the lakeside swimming areas, extensive hiking trails and, in 1962, a beautiful fieldstone park lodge with 28 rooms and a 200-seat capacity dining room; and

WHEREAS, the Carter Caves State Resort Park is home to more than 20 caverns, including Cascade Cave, named for its underground waterfall; Bat Cave, the winter residence for thousands of rare bats; and Saltpetre Cave, whose links to historic business ventures is intertwined with Carter County's economic origins; and

WHEREAS, the Carter Caves State Resort Park's cave system is now recognized internationally as a resource for caving enthusiasts, as an educational facility for teachers and students, as a research location for geologists, ecologists and other scientists, and as a vacation destination for thousands of visitors whose potential to share this resource was made possible by the generosity, leadership and foresight of Carter County's Lewis family;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Tourism Development Cabinet shall rename the Caveland Lodge as the "Lewis Caveland Lodge."

Section 2. The Tourism Development Cabinet shall, within ninety days of the effective date of this Resolution, ensure that park signs are change to read "Lewis Caveland Lodge," and shall reprint all Carter Caves State Resort Park promotional materials, brochures and other documents to reflect the appropriate name change for the lodge.

The Committee on Education reported **HB 131, HB 193,** with Committee Substitute and Committee Amendment attached thereto, and **HCR 22,** with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 131, AN ACT relating to public safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 383.010 TO 383.285 IS CREATED TO READ AS FOLLOWS:

Any public or private institution of postsecondary education which operates or acts as agent for an on-campus housing facility within the Commonwealth shall disclose to any potential lessee whether the on-campus housing facility is or is not equipped with an automatic fire suppression system. A two (2) part written disclosure statement, separate from other rental documents with typeface of no less than fourteen (14) points, shall be signed by both parties acknowledging that disclosure of the presence or lack of an automatic fire suppression system has been made. The potential lessee shall be given a copy and a copy shall be retained by the lessor for the duration of the rental agreement.

HB 193, AN ACT relating to improving student achievement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly hereby finds that reading and mathematics proficiency are gateway skills necessary for all of Kentucky students to achieve the academic goals established in KRS 158.6451. It is the General Assembly's intent that all students demonstrate reading and mathematical proficiency as they complete each assessment level required by the Kentucky Board of Education for the state assessment program established under KRS 158.6453. Students who are not at the proficient level shall be provided diagnostic and intervention services, and instructional modifications necessary to learn. To accomplish the goal of all students reaching proficiency in reading and mathematics, collaboration is necessary among the General Assembly, the Kentucky Board of Education, the Kentucky Department of Education, local boards of education, school administrators, colleges and universities, school councils, teachers, parents, and other educational entities, such as the Education Professional Standards Board, and P-16 councils to share responsibility in helping students obtain proficiency. Intensive focus on student achievement in reading and mathematics does not negate the responsibility of any entity to help students obtain proficiency in all core curriculum content areas.

(2) (a) The General Assembly's role is to provide resources to support student achievement that shall include, but not be limited to, funds for the professional growth of teachers and administrators, funds for assessing students' academic achievement, including diagnostic assessment and instructional interventions, technology innovations, targeted reading and mathematics statewide initiatives, research and the distribution of research findings, and services for students beyond the regular school day and other services needed to help struggling learners.

(b) The Kentucky Board of Education shall regularly review and modify, when appropriate, its statewide assessment policies and practices to enable local school districts and schools to carry out the provisions of the statewide assessment and accountability system required under KRS 158.6453 to improve student achievement in mathematics and reading.

(c) The Kentucky Department of Education shall provide assistance to schools and teachers, including notification and access of appropriate professional development; identification of high-quality instructional materials; identification of developmentally appropriate screening and diagnostic assessments of student progress in mathematics and reading; samples of units of study, annotated student work, and diagnostic instruments; access to research findings; and guidance on parental engagement. The department shall conduct an annual review of its own practices regarding the state grant programs it manages and eliminate activities that are ineffective and inefficient. The department in collaboration with other partners shall implement procedures to train classroom coaches and mentors to help teachers with reading and mathematics instruction.

(d) Colleges and universities shall assess on an ongoing basis the appropriateness of its content requirements for teachers preparing to teach at all grade levels to ensure that all teachers, and specifically those that are preparing to teach reading and mathematics, are equipped to assist students in these areas. The colleges and universities shall work through P-16 councils or utilize other mechanisms to ensure alignment of P-16 curriculum. Colleges and universities shall take an active role in the development of appropriate continuing education for teachers in reading and mathematics. Colleges and universities are encouraged to conduct research related to diagnostic and intervention programs for reading and mathematics and to disseminate the information to classroom teachers. The Council on Postsecondary Education and the Education Professional Standards Board shall provide guidance and oversight to the requirements in this paragraph or may request that a statewide P-16 council advise them on the matter.

(e) In addition to responsibilities under KRS 158.649(5), each school council, or if there is no school council the principal, shall institute procedures whereby a review of the academic progress of each student who performed below proficiency in reading and mathematics the previous year on state assessments administered under KRS 158.6453 is conducted. A review may include but is not limited to formal diagnostic assessments, teacher observations and evaluations, and other measures of continuous assessment. As a result of the review of a student's academic progress, the appropriate teachers and staff shall design individual intervention strategies

and modifications to instructional practices, which may include but are not limited to: specialized, intensive instruction on an individual basis or in small groups; and tutoring during the regular school day, or outside the regular school day, week, or school year.

(f) If the teachers and staff determine that a student needs intervention services outside the regular school day, week, or school year, the parents, guardian, or custodian shall be informed and an individual intervention plan completed to describe the interventions and timelines. A student whose parents, guardian, or custodian formally agrees to an intervention plan of continuing education for the student outside the regular school day, week, or school year shall be responsible for ensuring that the student is in regular attendance during the intervention period. The student shall be subject to the compulsory school attendance requirements under KRS 159.010. The parents, guardian, or custodian of a student who violates regular attendance under provisions of an intervention plan shall be subject to KRS 159.180.

(g) Local school boards and the superintendent shall provide local resources, whenever possible, to supplement or match state and federal resources to support teachers, school administrators, and school councils in helping students achieve proficiency in reading and mathematics.

The Committee Substitute to **HB 193** is as follows:

HB 193, AN ACT relating to improving student achievement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly hereby finds that reading and mathematics proficiency are gateway skills necessary for all Kentucky students to achieve the academic goals established in KRS 158.6451. It is the General Assembly's intent that:

(a) All students demonstrate proficiency in reading and mathematics as they complete each assessment level required by the Kentucky Board of Education for the state assessment program established under KRS 158.6453 and in compliance with the requirements of the federal "No Child Left Behind Act of 2001", 20 U.S.C. 6301 et seq.; and

(b) Students who are not at the proficient level on statewide assessments be provided research-based and developmentally appropriate diagnostic and intervention services, and instructional modifications necessary to learn.

The General Assembly, the Kentucky Board of Education, the Kentucky Department of Education, the Council on Postsecondary Education, colleges and universities, local boards of education, school administrators, school councils, teachers, parents, and other educational entities, such as the Education Professional Standards Board, P-16 councils, the Collaborative Center for Literacy Development, and the Center for Middle School Achievement must collaborate if the intentions specified in this subsection are to be met. Intensive focus on student achievement in reading and mathematics does not negate the responsibility of any entity to help students obtain proficiency in other core curriculum content areas.

(2) The General Assembly's role is to set policies that address the achievement levels of all students and provide resources for the professional growth of teachers and administrators, assessing students' academic achievement, including diagnostic assessment and instructional interventions, technology innovations, targeted reading and mathematics statewide initiatives, research and the distribution of research findings, services for students beyond the regular school day, and other services needed to help struggling learners.

(3) The Kentucky Board of Education shall regularly review and modify, when appropriate, its statewide assessment policies and practices to enable local school districts and schools to carry out the provisions of the statewide assessment and accountability system, required under KRS 158.6453 to improve student achievement in mathematics and reading.

(4) The Kentucky Department of Education shall:

(a) Provide assistance to schools and teachers including publicizing professional development opportunities, the availability of high quality instructional materials, and developmentally appropriate screening and diagnostic assessments of student progress in mathematics and reading. The department shall provide access to samples of units of study, annotated student work, diagnostic instruments, and research findings, and give guidance on parental engagement.

(b) Conduct an annual review of the state grant programs it manages and make recommendations, when needed, to the Interim Joint Committee on Education for changes to statutory requirements that are necessary to gain a greater return on investment.

(c) Provide administrative support and oversight to programs to train classroom coaches and mentors to help teachers with reading and mathematics instruction.

(5) The Council on Postsecondary Education, in cooperation with the Education Professional Standards Board, shall exercise its duties and functions under KRS 164.020 to ensure that teacher education programs are fulfilling the needs of Kentucky for highly skilled teachers. The council shall coordinate the federal and state grant programs it

administers with other statewide initiatives relating to improving student achievement in reading and mathematics to avoid duplication of effort and to make efficient use of resources.

(6) Colleges and universities shall:

(a) Utilize institution-wide resources to work with elementary and secondary educators and other entities to align curriculum content to ensure that students who achieve proficiency on standards established at the prekindergarten through secondary levels will require no remediation to successfully enter a postsecondary education program;

(b) Provide quality undergraduate teacher preparation programs to ensure that those preparing to teach reading or mathematics at all grade levels have the necessary content knowledge, assessment and diagnostic skills, and teaching methodologies;

(c) Deliver appropriate continuing education for teachers in reading and mathematics through institutes, graduate level courses, and other professional development activities that support a statewide agenda for improving student achievement in reading and mathematics;

(d) Conduct or assist with research on best practices in assessment, intervention strategies, teaching methodologies, costs and effectiveness of instructional models, and other factors as appropriate to reading and mathematics;

(e) Provide staff to observe, consult, and provide technical assistance to teachers, staff, and administrators at elementary, middle, and secondary school sites; and

(f) Assume active roles in the statewide initiatives referenced in Sections 2 and 4 of this Act.

(7) (a) In addition to responsibilities under KRS 158.649(5), each school council or if there is no school council, the principal, shall adopt a policy to set forth the procedures for a review of the academic progress of each student who performed below proficiency in reading and mathematics the previous year on state assessments administered under KRS 158.6453 and in compliance with the federal "No Child Left Behind Act of 2001", 20 U.S.C. 6301 et seq.

1. A review may include but not be limited to formal diagnostic assessments, teacher observations and evaluations, and other measures of continuous assessment.

2. As a result of a review of a student's academic progress, the appropriate teachers and staff shall design individual intervention strategies and modifications to instructional practices, which may include but not be limited to specialized, intensive instruction on an individual basis or in small groups; and tutoring during the regular school day, or outside the school day, week, or regular school year. Nothing in this paragraph shall be construed to require a standardized, formal written individual intervention plan for each student scoring below proficiency within a school. The process for designing the individual intervention strategies and modifications to instructional practices for each student shall be determined by the appropriate school personnel.

3. If the teachers and staff determine that a student needs intervention services outside the regular school day, week, or school year, they shall meet with the parents, guardians, or custodians to develop an individual intervention plan that specifies the interventions and timelines for implementation and completion of the plan. It is the intent of the General Assembly that the emphasis be placed on determining and delivering continuous assessment and intervention services rather than on the preparation of a written plan. The written plan shall provide only those details essential to the process. The plan may be incorporated into a student's educational plan if a plan already exists.

4. A student whose parents, guardians, or custodians formally agree to an intervention plan of continuing education for the student outside the regular school day, week, or school year shall be responsible for ensuring that the student is in regular attendance during the intervention period. The student shall be subject to the compulsory school attendance requirements under KRS 159.010. The parents, guardians, or custodians of a student who violates regular attendance under provisions of an intervention plan shall be subject to KRS 159.180.

5. If the parents, guardians, or legal custodians of a student do not agree to continuing education outside the regular school day, week, or regular school year for the student, the teachers and staff shall design alternative instructional modifications and interventions to address the student's needs.

6. If a student has an intervention plan, the plan shall be transferred with the student's records if the student transfers to another school.

(b) School councils at all school levels are encouraged to identify and allocate resources to qualified teachers to become coaches or mentors in mathematics or coaches or mentors in reading with a focus on improving student achievement in their respective schools.

(8) Local school boards and superintendents shall provide local resources, whenever possible, to supplement or match state and federal resources to support teachers, school administrators, and school councils in helping students achieve proficiency in reading and mathematics.

(9) Local school superintendents shall provide leadership and resources to the principals of all schools to facilitate

curriculum alignment, communications, and technical support among schools to ensure that students are academically prepared to move to the next level of schooling.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The Committee for Mathematics Achievement is hereby created for the purposes of developing a multi-faceted strategic plan to improve student achievement in mathematics at all levels of schooling, prekindergarten through postsecondary. At a minimum the plan shall address:

(a) Challenging curriculum that is aligned prekindergarten through postsecondary, including consensus among high school teachers and postsecondary education faculty about expectations, curriculum, and assessment;

(b) Attitudes and beliefs of teachers about mathematics;

(c) Teachers' knowledge of mathematics;

(d) Adequacy and efficiency of instructional and assessment strategies;

(e) Shortages of teachers of mathematics, including incentives to attract strong candidates to mathematics teaching;

(f) Statewide institutes that prepare cadres of mathematics leaders in local school districts, which may include highly skilled retired mathematics teachers, to serve as coaches and mentors in districts and schools;

(g) Cohesive continuing education options for experienced mathematics classroom teachers;

(h) Closing the student achievement gap among various student subpopulations;

(i) Curriculum expectations and assessments of students among the various school levels, prekindergarten, primary, elementary, middle, and high school.

(j) Introductory postsecondary education mathematics courses that are appropriate to the wide array of academic programs and majors;

(k) Research to analyze further the issues of transition from high school to postsecondary education mathematics; and

(l) The early mathematics testing program under KRS 158.803.

Other factors may be included in the strategic plan as deemed appropriate by the committee to improve mathematics achievement of Kentucky students.

(2) In carrying out its responsibility under subsection (1)(f) of this section, the committee shall:

(a) Design a statewide professional development program that includes summer mathematics institutes at universities, follow-up, and school-based support services, beginning no later than June 1, 2005, to prepare teams of teachers as coaches and mentors of mathematics at all school levels to improve student achievement. The statewide initiative shall be funded, based on available funds, from the Teachers' Professional Growth Fund described in Section 4 of this Act. The design shall:

1. Define the curricula focus;

2. Build on the expertise of specific universities;

3. Place emphasis on mathematics content, assessments, and interventions, and teaching methodologies;

4. Identify quality control measures for the delivery of each institute;

5. Establish evaluation procedures for the summer institutes and the other professional development components;

6. Provide updates and networking opportunities for coaches and mentors throughout the school year; and

7. Define other components within the initiative that are necessary to meet the goal of increasing student achievement in mathematics.

(b) Require schools and districts approved to have participants in the mathematics leader institutes to provide assurances that:

1. The local mathematics curricula and assessments align with state standards for mathematics;

2. There is a local commitment to build a cadre of mathematics leaders within the district;

3. The district and participating schools will provide in-school support for coaching and mentoring activities;

4. The mathematics teachers are willing to develop classroom assessments that align with state assessments; and

5. Students who need modified instructional and intervention services will have opportunity for continuing education services beyond the regular school day, week, or year.

(c) In addition to the conditions specified in paragraph (b) of this subsection, the committee shall make recommendations to the Kentucky Department of Education and the Kentucky Board of Education for criteria to be included in administrative regulations promulgated by the board which define:

1. Eligible grant recipients, taking into consideration how this program relates to other funded mathematics initiatives;

2. The application process and review;

3. The responsibilities of schools and districts, including but not limited to matching funds requirements, released or extended time for coaches and mentors during the school year, continuing education requirements for teachers and administrators in participating schools, data to be collected, local evaluation requirements; and

4. Other recommendations requested by the Kentucky Department of Education.

(3) The committee shall be composed of twenty-two (22) members as follows:

(a) The commissioner of education or designee;

(b) The president or designee of the Council on Postsecondary Education;

(c) The president or designee of the Association of Independent Kentucky Colleges and Universities;

(d) The executive director or designee of the Education Professional Standards Board;

(e) A representative with a specialty in mathematics from each of the nine (9) public postsecondary education institutions defined in KRS 164.001, appointed by the president of the Council on Postsecondary Education;

(f) Two (2) elementary, two (2) middle and two (2) high school mathematics teachers, appointed by the commissioner of education with approval from their respective local principals and superintendents of schools; and

(g) Three (3) school administrators representing elementary, middle, and high school, appointed by the commissioner of education with approval from their respective local superintendents of schools.

Appointments to the committee shall be made no later than thirty (30) days following the effective date of this Act and the first meeting of the committee shall occur no later than thirty (30) days following appointment of the members.

(4) A majority of the full membership shall constitute a quorum.

(5) A temporary chair of the committee shall be appointed prior to the first meeting of the committee through consensus of the president of the Council on Postsecondary Education and the commissioner of education, to serve ninety (90) days after his or her appointment. Prior to the end of the ninety (90) days, the committee shall elect a permanent chair by majority vote. The temporary chair may be a nominee for the permanent chair by majority vote. The chair shall be the presiding officer of the committee, and coordinate the functions and activities of the committee.

(6) The committee shall be attached to the Kentucky Department of Education for administrative purposes. The commissioner of education may contract with a mathematics-trained professional to provide part-time staff support to the committee. The commissioner of education and the president of the council shall reach consensus in the selection of a person to fill the position. The person selected shall have a graduate degree, a mathematics major, and teaching or administrative experience in elementary and secondary education. The person shall not be a current employee of any entity represented on the committee. The department shall provide office space and other resources necessary to support the staff position and the work of the committee.

(7) The committee, under the leadership of the chair, may organize itself into appropriate subcommittees and work structures to accomplish the purposes of the committee.

(8) Members of the committee shall serve without compensation but shall be reimbursed for necessary travel and expenses while attending meetings at the same per diem rate promulgated in administrative regulation for state employees under provisions of KRS Chapter 45. Funds may be provided school districts to cover the cost of substitute teachers for those teachers on the committee at each district's established rate for substitute teachers.

(9) If a vacancy occurs within the committee during its duration, the commissioner of education or the president of the Council on Postsecondary Education, as appropriate, shall appoint a person to fill the vacancy.

(10) The committee shall:

(a) Present a draft strategic plan addressing the requirements in subsection (1) of this section to the Education Assessment and Accountability Review Subcommittee no later than August 2004;

(b) Present the strategic plan for improving mathematics achievement to the Interim Joint Committee on Education by July 15, 2005, which shall include any recommendations that require legislative action; and

(c) Provide a final written report of committee activities to the Interim Joint Committee on Education and the Legislative Research Commission by December 1, 2005.

(11) The provisions of this section shall expire on December 31, 2005.

SECTION 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The mathematics achievement fund is hereby created to provide developmentally appropriate diagnostic and intervention services to students to help them reach proficiency in mathematics on the state assessments under KRS 158.6451 and in compliance with the "No Child Left Behind Act of 2001", 20 U.S.C. 6301 et seq. as required under Section 1 of this Act.

(2) *The fund shall be administered by the Kentucky Department of Education. The Kentucky Board of Education with advice from the Committee for Mathematics Achievement shall promulgate administrative regulations for distribution of grants under provisions of this section.*

(3) *The grant funds may be used to support the implementation of diagnostic and intervention services in mathematics. The use of funds may include: pay for extended time for teachers, released time for teachers to serve as coaches and mentors or to carry out other responsibilities needed in the implementation of intervention services, payment of substitute teachers needed for the support of mathematics teachers, purchase of materials needed for modification of instruction, and other costs associated with diagnostic and intervention services or to cover other costs deemed appropriate by the Kentucky Board of Education.*

Section 4. KRS 156.553 is amended to read as follows:

(1) The teachers' professional growth fund is hereby created to provide teachers with high quality professional development in content knowledge in mathematics, *reading,* science, language arts, social studies, arts and humanities, practical living, vocational studies, and foreign languages*; classroom-based screening, diagnostic, assessment and intervention strategies; and*[~~as well as~~] teaching methodologies[~~ to impart the content to students. During the years 2000 to 2004, priority for funding shall be given to middle school teachers, and, based upon available funds, and in subsequent years, funding shall be made available to teachers in all grade levels in the subject areas listed in this subsection~~]. Based on available funds, student achievement data, and teacher data, the Kentucky Board of Education shall annually determine the priority for content emphasis based on the greatest needs.

(2) *(a)* The fund may provide moneys to teachers for:

1.[~~(a)~~] Tuition reimbursement for successful completion of college or university level courses, including on-line courses and seminars, approved for this purpose by the Education Professional Standards Board;

2.[~~(b)~~] Stipends for participation in and successful completion of:

a.[~~1.~~] College or university courses, including on-line courses and seminars, approved for this purpose by the Education Professional Standards Board;

b.[~~2.~~] Teacher institutes developed for core content instructors by the Department of Education in compliance with KRS 156.095; and

c.[~~3.~~] Other professional development programs approved by the Kentucky Department of Education;

3.[~~(c)~~] Reimbursement for the purchase of materials required for professional development programs; and

4.[~~(d)~~] Reimbursement for other approved professional development activities throughout the school year, including reimbursement for:

a.[~~1.~~] Travel to and from professional development workshops; and

b.[~~2.~~] Travel to and from other schools for the observation of, and consultation with, peer mentors*; or*

(b) *The fund may be used to provide grants to local school districts to support staff participation in specific, statewide initiatives for the professional development of teachers and administrators in specific content areas as established by the Kentucky Department of Education and the Kentucky Board of Education under the provisions of subsections (4), (5), and (6) of this section and referenced in Section 2 of this Act.*

(c) *The fund may be used to provide grants to universities to plan and develop statewide professional development institutes and other professional development services.*

(d) *The fund may be used to provide grants to local school districts, to universities, or other entities to assist the Kentucky Department of Education in evaluating costs and the effectiveness of activities and initiatives established under this section*.

(3) The Education Professional Standards Board shall determine the college and university courses, including on-line courses and seminars, for which teachers may receive reimbursement from the fund.

(4) The Department of Education shall:

(a) Administer the fund. In order to process reimbursements to teachers promptly, the reimbursements shall not be subject to KRS 45A.690 to 45A.725;

(b) Determine the professional development programs for which teachers may receive reimbursement *or districts or universities may receive grants* from the fund;

(c) Determine the level of stipend or reimbursement, subject to the availability of appropriated funds, for particular courses and programs, under subsection (2) of this section; and

(d) Provide an accounting of fund expenditures *and results of the use of the funds for each biennium to the Interim Joint Committee on Education by November 1 of each odd-numbered year*[~~to the Center for Middle School Academic Achievement, upon request of the center, for use in preparing the center's annual report~~].

(5) The professional development programs approved by the Department of Education for which teachers may receive support from the fund shall:

(a) Focus on improving the content knowledge of teachers;

(b) *Provide training in the use of research-based and developmentally appropriate classroom-based screening, diagnostic, assessment, and intervention strategies;*

(c) Provide instruction on teaching methods to effectively impart content knowledge to all students;

(d)[~~(c)~~]Include intensive training institutes and workshops during the summer;

(e)[~~(d)~~]Provide programs for the ongoing support of teacher participants throughout the year, which may include:

1. A peer coaching or mentoring, and assessment program; and
2. Planned activities, including:
    a. Follow-up workshops; and
    b. Support networks of teachers of the core disciplines using technologies, including but not limited to telephone, video, and on-line computer networks; and

(f)[~~(e)~~] Provide teacher participants with professional development credit toward renewal of certification under the provisions of KRS 161.095, relating to continuing education for teachers.

(6) The Kentucky Board of Education shall specify through promulgation of administrative regulations:

(a) The application and approval process for receipt of funds;

(b) The requirements and process for the disbursal of funds; and

(c) The number of each kind of approved course for which applicants may receive funds.

(7) Notwithstanding any other provisions to the contrary, a local school board may advance the funds necessary for its teachers to participate in a college course or professional development seminar or activity approved by the Kentucky Department of Education and the Education Professional Standards Board under provisions of this section and receive reimbursement from the department at the conclusion of the activity or course by the teacher. If funds are advanced for the benefit of a teacher under this subsection, but the teacher does not fulfill his or her obligation, the teacher shall reimburse the school district for the funds expended by the district on the teacher's behalf.

(8) Notwithstanding the provisions of KRS 45.229, unexpended funds in the teachers' professional growth fund in the 2000-2001 fiscal year or in any subsequent fiscal year shall not lapse but shall carry forward to the next fiscal year and shall be used for the purposes established in subsections (1) and (2) of this section.

(9) Notwithstanding any provisions of this section to the contrary, beginning June 1, 2005, through the 2008-2009 school year, priority for the use of funds from the teachers' professional growth fund, shall be used to train and support teams of teachers from all school levels to be trained as reading coaches and mentors or as mathematics coaches and mentors in statewide institutes referenced in Sections 1 and 2 of this Act.

(a) The design of the statewide mathematics institutes to train mathematics coaches and mentors shall be developed by the Committee for Mathematics Achievement established in Section 2 of this Act. The committee shall provide recommendations to the Kentucky Department of Education and the Kentucky Board of Education in the preparation of administrative regulations that may be promulgated by the board to implement the provisions of this subsection relating to mathematics.

(b) The development of the statewide program to train reading coaches and mentors shall be coordinated by the Kentucky Department of Education with recommendations from the Collaborative Center for Literacy Development, established in KRS 164.0207, and the reading steering committee established in KRS 158.794. The design of the program shall reflect a consensus of the agencies involved in the development of the program. The training program for reading coaches and mentors shall complement other statewide reading initiatives, funded with state and federal funds, and shall give priority to teachers in grades four (4) through twelve (12). The program shall be implemented no later than June 1, 2005. The board shall promulgate administrative regulations required to implement the provisions of this subsection relating to reading.

Section 5. KRS 158.792 is amended to read as follows:

(1) As used in this section and KRS 164.0207, unless the context requires otherwise:

(a) "*Comprehensive reading program" means a program that emphasizes the essential components of reading: phonemic awareness, phonics, fluency, vocabulary, comprehension, and connections between writing and reading acquisition and motivation to read*[~~Reading" means the process of comprehending the meaning of written text by depending on:~~

~~1. The ability to use phonics skills, that is, knowledge of letters and sounds, to decode printed words quickly and effortlessly, both silently and aloud;~~

~~2. The ability to use previously learned strategies for reading comprehension; and~~

~~3. The ability to think critically about the meaning, message, and aesthetic value of the text~~].

(b) *"Reading diagnostic assessment" means an assessment that identifies a struggling reader and measures the reader's skills against established performance levels in the essential components of reading. The purpose is to* *screen for areas that require intervention in order for the student to learn to read proficiently.*

(c) "Reading intervention program" means intensive instruction in the essential skills necessary to read proficiently that is provided to a student by a highly trained teacher. This instruction may be conducted one-on-one or in small groups, shall be research-based, reliable, and replicable, and shall be based on the ongoing assessment of individual student needs.

(d) "Reliable, replicable research" means objective, valid, scientific studies that:

1. Include rigorously defined samples of subjects that are sufficiently large and representative to support the general conclusions drawn;
2. Rely on measurements that meet established standards of reliability and validity;
3. Test competing theories, where multiple theories exist;
4. Are subjected to peer review before their results are published; and
5. Discover effective strategies for improving reading skills.

(2) The[~~ early~~] reading *diagnostic and intervention*[~~incentive~~] fund is created to *help teachers* improve the reading skills of *struggling readers*[~~students~~] in the primary program *and students who have performed below the proficiency level on statewide assessments administered under KRS 158.6453 and in compliance with the federal "No Child Left Behind Act of 2001", 20 U.S.C. 6301 et seq*. The Department of Education, upon the recommendation of the[~~ Early~~] Reading *Diagnostic and Intervention*[~~ Incentive~~] Grant Steering Committee, shall provide *renewable, two (2) year* grants to schools to support teachers in the implementation of reliable, replicable research-based reading *intervention programs*[~~models~~] that use a balance of *diagnostic tools, and* instructional strategies *that emphasize phonemic awareness, phonics, fluency, vocabulary, comprehension, and connections between writing and reading acquisition and motivation to read*[~~, including phonics instruction,~~] to address the diverse learning needs of those students reading at low levels. Any moneys in the fund at the close of the fiscal year shall not lapse but shall be carried forward to be used for the purposes specified in this section.

(3) *(a) The Kentucky Board of Education shall promulgate administrative regulations, based on recommendations from the reading steering committee established in KRS 158.7694 and the Collaborative Center for Literacy Development established in KRS 164.0207:*

1. Identify eligible grant applicants, taking into consideration how the grant program described in this section will relate to other grant programs;

2. Specify the criteria for acceptable diagnostic assessments and intervention programs;

3. Specify the criteria for acceptable ongoing assessment of each child to determine his or her reading progress;

4. Establish the minimum evaluation process for an annual review of each grant recipient's program and progress;

5. Identify the annual data that must be provided from grant recipients;

6. Define the application review and approval process;

7. Establish matching requirements deemed necessary;

8. Define the professional development and continuing education requirements for teachers, administrators, and staff of grant recipients;

9. Establish the conditions for renewal of a two (2) year grant; and

10. Specify other conditions necessary to implement the purposes of this section.

(b) The board shall require that a grant applicant provide assurances that the following principles will be met if the applicant's request for funding is approved:

1. A research-based comprehensive schoolwide reading program will be available within the elementary school for those schools seeking grants for struggling readers in the primary program;

2. Intervention services will supplement, not replace, regular classroom instruction; and

3. Intervention services will be provided to struggling primary program readers and students who score below proficiency on the state assessments in grades four (4) to twelve (12) within the school based upon ongoing assessment of their needs[~~Upon recommendation of the Early Reading Incentive Grant Steering Committee, the state board shall establish by promulgation of an administrative regulation in accordance with provisions of KRS Chapter 13A an application process and the criteria for funding grants. The application shall include, but not be limited to, the following:~~

~~(a) Identification of the research-based model to be implemented;~~

~~(b) The method for identifying qualified students to be served;~~

~~(c) An implementation plan and timeline, including supporting professional development efforts;~~

~~(d) A plan for evaluation to assess the short-term and long-term success of the program;~~

~~(e) A budget; and~~

~~(f) Approval of the application by the school council if one exists, the principal, and the superintendent of schools~~].

(4) In order to qualify for funding, the school council, or if none exists, the ***principal or the*** superintendent of schools, shall allocate matching funds ***required of grant recipients under subsection (3) of this section***. Funding for professional development allocated to the school council under KRS 160.345 and for continuing education under KRS 158.070 may be used as part of the school's match.

(5) The Department of Education shall make available to schools:

(a) Information concerning successful, research-based ***comprehensive***[~~early~~] reading ***programs, diagnostic tools for pre- and post-assessment, and intervention programs***[~~models, including phonics instruction~~], from the Collaborative Center for Literacy Development created under KRS 164.0207;

(b) Strategies for successfully implementing early reading programs, including professional development support and the identification of funding sources; and

(c) A list of professional development providers offering teacher training related to ***reading that emphasizes the essential components for successful reading: phonemic awareness, phonics, fluency, vocabulary, comprehension, and connections between writing and reading acquisition and motivation to read***[~~phonics instruction~~].

(6) The Department of Education shall submit a report to the Interim Joint Committee on Education no later than September 1 of each year outlining the use of grant funds[~~ and a summary of the program's evaluation conducted by the Collaborative Center for Literacy Development under KRS 164.0207~~]. ***The report shall also include comparisons of the overall costs and effectiveness of approved intervention programs. The annual report for an odd-numbered year shall include an estimate of the cost to expand the reading diagnostic and intervention grant program.***

Section 6. This Act may be cited as the Gateway Skills Act of 2004.

Section 7. Whereas it is essential that the Committee for Mathematics Achievement be established as quickly as possible in order to complete the duties assigned to it in Section 2 of this Act; whereas it is important that work begin in a timely fashion in the design of the statewide professional development programs to train coaches and mentors, and whereas it is important that the Kentucky Department of Education inform the local school districts regarding the provisions of Section 1 of this Act, relating to students not at proficiency, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Amendment No. 1 Title to **HB 193** is as follows:

HB 193, Change title to read "AN ACT relating to improving student achievement, making an appropriation therefor, and declaring an emergency.".

HCR 22, A CONCURRENT RESOLUTION confirming the nomination of Tanya A. McGaha to the Governor's Postsecondary Education Nominating Committee.

WHEREAS, by the authority granted by KRS 164.005, Governor Paul E. Patton has issued Executive Order 2003-444 appointing Tanya A. McGaha to the Governor's Postsecondary Education Nominating Committee representing the 5th Supreme Court District to replace Nick Orlando Rowe, who has resigned, for the remainder of his unexpired term ending April 14, 2004; and

WHEREAS, appointments to the Governor's Postsecondary Education Nominating Committee are subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by letter of June 3, 2003, the Governor's has delivered Tanya A. McGaha's name for confirmation as a member of the Governor's Postsecondary Education Nominating Committee, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Tanya A. McGaha meets the requirements established in KRS 164.005 for membership on the Governor's Postsecondary Education Nominating Committee;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the appointment of Tanya A. McGaha to the Governor's Postsecondary Education Nominating Committee representing the 5th Supreme Court District for the remainder of the unexpired term ending April 14, 2004.

Section 2. The Clerk of the House of Representatives shall send notification of the General Assembly's action to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601, and Ms. Tanya A. McGaha, 314 Exum Court, Frankfort, Kentucky 40601.

The Committee Substitute to **HCR 22** is as follows:

HCR 22, A CONCURRENT RESOLUTION confirming the nomination of Tanya McGaha to the Governor's Postsecondary Education Nominating Committee.

WHEREAS, by the authority granted by KRS 164.005, Governor Paul E. Patton has issued Executive Order 2003-444 appointing Tanya McGaha to the Governor's Postsecondary Education Nominating Committee representing the 5th Supreme Court District to replace Nick Orlando Rowe, who has resigned, for the remainder of his unexpired term ending April 14, 2004; and

WHEREAS, appointments to the Governor's Postsecondary Education Nominating Committee are subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, by letter of June 3, 2003, the Governor has delivered Tanya McGaha's name for confirmation as a member of the Governor's Postsecondary Education Nominating Committee, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Tanya McGaha meets the requirements established in KRS 164.005 for membership on the Governor's Postsecondary Education Nominating Committee;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the appointment of Tanya McGaha to the Governor's Postsecondary Education Nominating Committee representing the 5th Supreme Court District for the remainder of the unexpired term ending April 14, 2004.

Section 2. The Clerk of the House of Representatives shall send notification of the General Assembly's action to Governor Paul E. Patton, Room 100, State Capitol, Frankfort, Kentucky 40601, and Ms. Tanya McGaha, 314 Exum Court, Frankfort, Kentucky 40601.

The Committee Amendment No. 1 Title to **HCR 22** is as follows:

HCR 22, Amend the title to read as follows:

"A CONCURRENT RESOLUTION confirming the nomination of Tanya McGaha to the Governor's Postsecondary Education Nominating Committee."

The Committee on Banking and Insurance reported **HB 89** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 89, AN ACT relating to health insurance coverage for colorectal cancer detection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A health benefit plan issued or renewed on or after the effective date of this Act shall provide coverage on an expense-incurred basis for all colorectal cancer examinations and laboratory tests specified in current American Cancer Society guidelines for colorectal cancer screening of asymptomatic individuals, as follows:

(a) Coverage or benefits shall be provided for all colorectal screening examinations and tests that are administered at a frequency identified in the most recent version of the American Cancer Society guidelines for colorectal cancer.

(b) The covered individual shall be:

1. Fifty (50) years of age or older; or

2. Less than fifty (50) years of age and at high risk for colorectal cancer according to current colorectal cancer screening guidelines of the American Cancer Society.

(2) Coverage under this section shall not be subject to a separate deductible or separate coinsurance, but may be subject to the same deductible or coinsurance established for other laboratory testing under the health benefit plan.

Calendar

HB 19, 20, 109, 202, HCR 15, 20, HB 249, 49, 167, 188, and **HCR 16** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Adkins recognized Representative Bruce for his years of service and acknowledged a permanent desk plaque.

Representative Ballard moved to suspend the rules to act on a Resolution. Agreed.

Representative Ballard moved the adoption of the following **HR 56**:

HR 56, A RESOLUTION adjourning the House of Representatives in honor of James N. Halvatgis upon his retirement from the Kentucky Department of Veterans' Affairs.

WHEREAS, James N. Halvatgis was born on November 15, 1928; he is the devoted husband of Edith Halvatgis; he is the loving father of two sons, Raymond Halvatgis of Farmerville, Louisiana and Peter Halvatgis of Houston, Texas, and a daughter, Deanna Halvatgis of Alexandria, Virginia; and he is the proud grandfather of Jenna, Amanda, Kara, A. J., Holly, and Ashley; and

WHEREAS, James N. Halvatgis graduated from the United States Military Academy at West Point on June 4, 1954, and he served his country with honor and distinction in the United States Army during the Vietnam War; and

WHEREAS, James N. Halvatgis has been employed by the Commonwealth of Kentucky for 15 years, and at the time of his retirement on July 31, 2003, he held the position of deputy commissioner of the Kentucky Department of Veterans' Affairs; and

WHEREAS, during his tenure with the Department of Veterans' Affairs, James N. Halvatgis was well-known as the "veterans' liaison" in the Commonwealth of Kentucky, and he is most recognized by the veterans' community and the veterans' service organizations for his ability to get things accomplished and for his good advice and counsel; he was instrumental in the establishment of the state veterans' cemeteries; he was involved in the original planning, justification, and site selection process of the two new state veterans' nursing homes that opened in the year 2000; the establishment of the Vietnam Veterans Memorial, Vietnam Veterans Memorial Trust Fund, Veterans license plates, Vietnam Veterans bonus, Kentucky Veterans Program Trust Fund, the establishment of the Governor's Advisory Board for Veterans' Affairs, and the Joint Executive Council Veterans' Organizations; and

WHEREAS, when we reflect upon the contributions James N. Halvatgis has tirelessly given to the citizens of this great Commonwealth, we are reminded that ethics and integrity have played a large part in his many achievements, and his accomplishments should serve as an example for those who succeed him; and

WHEREAS, James N. Halvatgis, fondly referred to as Mr. "H" by his colleagues, is well known for his hat, being frugal, perfect penmanship, story time, and his "I remembers";

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. Section 1. The House of Representatives recognizes that James N. Halvatgis, during his many years of service to the citizens of the Commonwealth of Kentucky, has demonstrated strong character and is an element of invincible strength to all the lives he has touched.

Section 2. The House of Representatives hails and commends James N. Halvatgis for his immeasurable contributions to the veterans of this great Commonwealth, and wishes to him upon his retirement continued success in all future endeavors.

Section 3. When the House of Representatives adjourns this day, it does so in honor of James N. Halvatgis.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. James N. Halvatgis, 6914 Bridgepointe Boulevard, Prospect, Kentucky 40059.

There being no objection, **HR 56** was adopted.

On the roll call for co-sponsors the vote was: **Yeas 91**. (See January 21, 2004, roll call to show co-sponsors on **HR 56**-Appendix.)

Representative Adkins moved that the rules be suspended for the introduction of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 344, by Representative Richards: AN ACT relating to electioneering and declaring an emergency.

HB 345, by Representative Westrom: AN ACT relating to the sales and use tax.

HB 346, by Representative DeWeese: AN ACT relating to sales and use taxes.

HR 89, by Representative Napier: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Julian Moss Sr.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Committee on Committee and Rules Committee report. Agreed.

Report of Committees

The Committee on Committees has met and reported the following change:

APPOINT:

Representative Weaver as ex officio member to Budget Review Subcommittee on General Government, Finance, and Public Protection

HB 344 referred to the Committee on Elections, Constitutional Amendments, and Intergovernmental Relations

Report of Committees (Continued)

The Committee on Rules reported that **HB 20, 49, 167, 188, 202, 249, HCR 15, 16, 20, HB 105, 148, 208, 139, 146,** and **156** have been posted for passage in the Regular Orders of the Day for January 22, 2004.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 157**

Agriculture and Small Business: **HB 140**

Orders of the Day

HB 200, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ballard moved the adoption of the Committee Substitute to **HB 200**. Agreed.

Representative Collins moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 200**. Agreed.

Representative Ballard moved that **HB 200**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 0.** (See January 21, 2004, roll call on **HB 200** - Appendix.)

HB 200, by way of Committee Substitute, as amended, was passed.

Representative Ballard moved the adoption of Floor Amendment No. 2 Title to **HB 200**. Agreed.

Representative Ballard moved that the vote by which **HB 200**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 31 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HCR 31** be adopted.

On the roll call the vote was: **Yeas 93, Nays 0**. (See January 21, 2004, roll call on **HCR 31** - Appendix.)

HCR 31 was adopted.

Representative Adkins moved that the vote by which **HCR 31** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 32, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved the adoption of the Committee Substitute to **HCR 32**. Agreed.

Representative Barrows moved that **HCR 32,** by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 94, Nays 0**. (See January 21, 2004, roll call on **HCR 32** - Appendix.)

HCR 32 , by way of Committee Substitute, was adopted.

Representative Adkins moved that the vote by which **HCR 32** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 33, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HCR 33** be adopted.

On the roll call the vote was: **Yeas 96, Nays 0**. (See January 21, 2004, roll call on **HCR 33** - Appendix.)

HCR 33, as amended, was adopted.

Representative Adkins moved the adoption of Committee Amendment No. 1 Title to **HCR 33**. Agreed.

Representative Adkins moved that the vote by which **HCR 33** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 34 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HCR 34** be adopted.

On the roll call the vote was: **Yeas 95, Nays 0**. (See January 21, 2004, roll call on **HCR 34** - Appendix.)

HCR 34 was adopted.

Representative Adkins moved that the vote by which **HCR 34** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 59, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of the Committee Substitute to **HB 59**. Agreed.

Representative Damron moved that **HB 59**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See January 21, 2004, roll call on **HB 59** - Appendix.)

HB 59, by way of Committee Substitute, was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 59**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Burch moved the adoption of the following **HR 88**:

HR 88, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Robert L. Barnett Jr.

With deepest respect and admiration, we pay homage and tribute to Robert L. Barnett Jr., and we pause in silent reverence for his soul.

WHEREAS, Robert L. Barnett Jr. was born on December 10, 1935, a native of Louisville, Jefferson County, Kentucky, and he traversed these earthly bounds on January 20, 2004; and

WHEREAS, Robert L. Barnett Jr. was the loving son of the late Robert L. Barnett Sr. and Mary Rose Barnett; he was the devoted husband of Delores Hutti Barnett; he was the loving father of six sons, Bob Barnett, David Barnett, Patrick Barnett, Stephen Barnett, Tim Barnett, and John Barnett; and the loving father of six daughters, Kathleen Russell, Ruth Grimm, Judith Boehman, Jean Ezell, Rachel Harrington, and Maureen McLean; and he was the proud grandfather of 23 grandchildren; and

WHEREAS, Robert L. Barnett Jr. was a licensed pharmacist for 45 years, and he was active in national, state, and local pharmacy associations; he was a past faculty member of the University of Kentucky College of Pharmacy; he ably served his profession as executive director of the Kentucky Pharmacists Association for 12 years, and during his tenure, he was instrumental in successful revisions of the Pharmacy Practice Act; and

WHEREAS, Robert L. Barnett Jr. was a man of service and an achiever, and his influence in the pharmaceutical field is immeasurable and will have lasting impact; he was held in high esteem by his peers, and during his career, he was the recipient of the JCAP Pharmacist of the Year award in 1965, and again in 1986; and in 1977, he was named KPhA's Pharmacist of the Year; and

WHEREAS, Robert L. Barnett Jr. was a devout member of St. Martha Catholic Church, where his funeral Mass will be held on January 23, 2004; and

WHEREAS, the passing of Robert L. Barnett Jr. has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Robert L. Barnett Jr., and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Robert L. Barnett Jr.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Delores Hutti Barnett, 3014 Dale Ann Drive, Louisville, Kentucky 40220.

There being no objection, **HR 88** was adopted.

On the roll call for co-sponsors the vote was: **Yeas 92**. (See January 21, 2004, roll call to show co-sponsors on **HR 88**-Appendix.)

Representative J. Arnold moved the adoption of the following **Legislative Citation No. 12**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory and honor of Carrie Lee Newman Kuegel of Owensboro, Kentucky, and joins with Representative John A. Arnold, Jr., in expressing deepest sympathy to the Newman and Kuegel Families and all who share in the profound loss on the passing of this esteemed citizen. The daughter of the late John Franklin Newman, Sr., and Hellan Blandford Newman, she was preceded in death by siblings, John Jr. and Martha. She is survived by her cherished husband of fifty-seven years, William Martin Kuegel, Sr.; children, William and Lois; siblings, Anna, Amy, and Claude; grandchildren, Jefferson, Caroline, John, Martin, and William; honorary children, Jerry and Edna; son-in-law, Jefferson; daughter-in-law, Lois; sister-in-law, Evelyn; and, a host of other family members, friends and loved ones. A graduate of Western Kentucky School of Business and retired employee of the doctors' offices of the late William Lee Tyler, Sr., and William Lee Tyler, Jr., Mrs. Kuegel served on the Kentucky State Bicentennial Committee; was a member of the Daughters of the American Revolution, the Owensboro River Park Board of Directors, and the Daviess County Democratic Women's Club. In addition, she was a 4-H leader; president of the PTA; a homeroom mother at Sorgho Elementary School; the director of the preservation of the one-room Pleasant Grove School; and, had traveled with the Friendship Force to Russia, China, Australia, Japan, and South America. This esteemed citizen is remembered on this day for the many and generous contributions she made to her family and community. Carrie Lee Newman Kuegel will be deeply missed by all those whose lives were touched by her remarkable presence. Done in Frankfort, Kentucky, this twenty-first day of January, in the year two thousand and four.

Legislative Citation No. 12 was adopted without objection.

Representative Napier moved the adoption of the following **HR 89**:

HR 89, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Julian Moss Sr.

With deepest respect and admiration, we pay homage and tribute to Julian Moss Sr., and we pause in silent reverence for his soul.

WHEREAS, Julian Moss Sr. was born on April 19, 1928, a native of Garrard County, Kentucky, and he traversed these earthly bounds on November 11, 2003; and

WHEREAS, Julian Moss Sr. was the loving son of the late William Ball Moss and Anna Elveree Carter Moss; he was the devoted husband of Juanita Moss; he was the loving father of a son, Julian Moss Jr.; and he was the proud grandfather of two grandchildren, Jeff Moss of Lancaster and Susan Moss Gibson of Lexington; and the proud great-grandfather of two great-grandchildren, Mitchell Carter Moss and Brandon Cruz Moss, both of Lancaster; and he also leaves behind three loving brothers, Billy Moss, Shelton Moss, and David Moss, all of Lancaster; and three loving sisters, Mary K. Hurte and Wilma Davis, both of Lancaster, and Virginia Rogers of Ft. Lauderdale, Florida; and

WHEREAS, Julian Moss Sr., fondly referred to as "Moose," was an outstanding and involved citizen of the Garrard County community, where he was a partner in Lancaster Loan Company and Lancaster Insurance Agency; he formerly served as Garrard County Coroner; he was past president of the Jaycees, and he was active in Garrard County Republican politics; he was instrumental in establishing the Lancaster/Garrard County Recreation Park, where a field is named in his honor; he was a former regional softball commissioner and was inducted into the Kentucky Softball Association Hall of Fame in 1992; he was a member of Franklin Lodge # 7100F; and

WHEREAS, Julian Moss Sr. was a devout member of Lancaster Christian Church, where he served over forty years as deacon, and where his funeral service was held on November 15, 2003; and

WHEREAS, the passing of Julian Moss Sr. has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

WHEREAS,

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Julian Moss Sr., and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Julian Moss Sr.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Juanita Moss, 123 North Paulding Street, Lancaster, Kentucky 40444.

There being no objection, **HR 89** was adopted.

On the roll call for co-sponsors the vote was: **Yeas 83**. (See January 21, 2004, roll call to show co-sponsors on **HR 89**-Appendix.)

Representative T. Thompson moved to suspend the rules to act upon a Resolution. Agreed.

Representative T. Thompson moved the adoption of the following **HR 85**:

HR 85, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Martin David Warren Sr.

With deepest respect and admiration, we pay homage and tribute to Martin David Warren Sr., and we pause in silent reverence for his soul.

WHEREAS, Martin David Warren Sr. was born on November 20, 1931, a native of Daviess County, Kentucky, and he traversed these earthly bounds on December 27, 2003; and

WHEREAS, Martin David Warren Sr. was the loving son of the late John Felix and Camilla Beaven Warren; and he was also preceded in death by a daughter, Cindy Beckett; he was the devoted husband of 50 years to Rose Smith Warren; he was the loving father of two sons, Martin David Warren Jr. and John Bernard Warren, both of St. Joseph, and three daughters, Stephanie Warren of Floyd Knob, Indiana; Tamara Warren of Curdsville; and Melanie Ewing of Jasper, Indiana; he was the proud grandfather of 14 grandchildren, and he was the proud great-grandfather of three great-grandchildren; he also leaves behind two loving brothers, Huston Warren of St. Joseph and Leroy Warren of Louisville, and a loving sister, Joyce Warren of West Louisville; and

WHEREAS, Martin David Warren Sr. was an esteemed member of the Daviess County community, where he was a devout member of St. Alphonsus Catholic Church and where his funeral Mass was held on December 30, 2003; and

WHEREAS, Martin David Warren Sr. was an outstanding citizen and public servant; he was a lifelong farmer and was employed at Big Independent Tobacco Warehouse and W. R. Grace; he served four terms as Daviess County Commissioner, and during his tenure in public office, he was instrumental in the development of the Daviess County park system, and he is also remembered for his effort in identifying problems with the county's roads, ditches, and bridges; and

WHEREAS, Martin David Warren Sr. was a veteran of the United States Air Force, and he was a member of VFW Post No. 696; he was a 4th Degree Knight of Columbus, Father Connor Council No. 6101; and he was also a member of the Daviess County Lions Club; and

WHEREAS, the passing of Martin David Warren Sr. has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Martin David Warren Sr., and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Martin David Warren Sr.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Rose Smith Warren, 11696 Utopia Road, Owensboro, Kentucky 42303.

There being no objection, **HR 85** was adopted.

Representative Adkins moved that the rules be suspended to waive the posting requirement on **HB 344** and **HCR 87**. Agreed.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions. Agreed.

Introductions of Bills and Resolutions (Continued)

HB 347, by Representatives Harmon and Bratcher: AN ACT proposing to amend the Constitution of Kentucky relating to taxes and expenditures.

HB 348, by Representative Edmonds: AN ACT relating to county clerks and making an appropriation therefor.

HB 349, by Representatives Meeks, Marzian, Graham, Riner, Jenkins, Miller, Horlander, and L. Clark: AN ACT relating to lead poisoning prevention and containing an appropriation therefor.

HB 350, by Representatives Miller, Siler, Meeks, Horlander, L. Clark, Hoffman, Dw. Butler, and J. Thompson: AN ACT relating to fines for traffic offenses.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and a Resolution have been posted for Committee consideration:

Seniors, Military Affairs, and Public Safety: **HB 21, 253, 273, 274, 315**

Licensing and Occupations: **HB 126, 277**

Judiciary: **HB 265, 284, 291, 256, 257, 276, 314, 303**

Natural Resources and Environment: **HB 301**

Agriculture and Small Business: **HCR 87**

The Clerk announced that the following Resolution has been withdrawn from Committee consideration:

Natural Resources and Environment: **HCR 28**

Motions, Petitions, and Communications (Continued)

Representative Riggs moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Riggs moved that he be recorded as voting "yea" on **HR 56**. Agreed.

Representative Vincent moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Vincent moved that he be recorded as voting "yea" on **HB 40, 82, 152, 187, HCR 14,** and **30**. Agreed.

Representative Wilkey moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Wilkey moved that he be recorded as voting "yea" on **HB 59, 200, HCR 31, 32, 33,** and **34**. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and a Resolution:

HB 7, Representative Westrom

HB 16, Representative Couch

HB 50, Representative Yonts

HB 59, Representative Westrom

HB 67, Representative Cherry

HB 90, Representative Westrom

HB 108, Representative Cherry

HB 113, Representative Cherry

HB 116, Representatives Jenkins, Stein, P. Clark, Burch, Moberly, and DeWeese

HB 123, Representatives Thomas, Cherry, Wilkey, J. Arnold, Weaver, Buckingham, Ballard, and Meeks

HB 133, Representative Westrom

HB 140, Representative Westrom

HB 144, Representative Hoffman

HB 157, Representative Westrom

HB 158, Representative Hoffman

HB 159, Representatives Westrom and Hoffman

HB 193, Representative Feeley

HB 196, Representatives Westrom and Hall

HB 207, Representative Feeley

HB 234, Representative Westrom

HB 266, Representative Walton

HB 286, Representative McKee

HB 287, Representative McKee

HB 289, Representative L. Clark

HB 315, Representative Jenkins

HB 317, Representative Nunn

HB 323, Representatives Thomas, Cherry, and Wilkey

HB 330, Representative Jenkins

HB 338, Representatives Westrom, Burch, and Palumbo

HB 340, Representatives Vincent and Webb

HB 341, Representatives Mobley and Crimm

HCR 41, Representative Westrom

Announcements

The following meeting was announced:

Committee on Elections, Constitutional Amendments, and Intergovernmental Relations - Thursday, January 22, 2004

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 2:00 p.m., Thursday, January 22, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 2:00 p.m., Thursday, January 22, 2004, was adopted by voice vote.

THURSDAY, JANUARY 22, 2004

TWELFTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend David Hinson, First Baptist Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives S. Lee and Sims.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 21, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Graham moved that the rules be suspended to grant floor privileges to the Frankfort Rotary Club and to act upon a Legislative Citation. Agreed.

Representative Graham moved the adoption of the following **Legislative Citation No. 13**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Frankfort Rotary Club and Rotary International as members representing this notable organization gather to witness a day of the 2004 Regular Session of the Kentucky General Assembly. Further, this extraordinary organization is afforded the deepest gratitude for their immense and valuable work to develop and support the PolioPlus Program, a humanitarian effort which, in cooperation with the United Nations World Health Organization, the U.S. Centers for Disease Control and the United Nations Children's Fund, seeks to eliminate the terrible disease, polio. The success of this program is demonstrated through the prevention of over 500,000 cases of polio each year. The members of this august body are pleased to join Representative Derrick W. Graham in applauding the extraordinary work of the Frankfort Rotary Club and in extending to them a sincere welcome to the Chambers of the Kentucky House of Representatives. Done in Frankfort, Kentucky, this twenty-second day of January, in the year two thousand and four.

Legislative Citation No. 13 was adopted without objection.

Introduction of Bills and Resolutions

HJR 90, by Representative Yonts: A JOINT RESOLUTION naming the "Tom Christerson Memorial Highway" in Muhlenberg County.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Appropriations and Revenue: **HB 345, 346**

Elections, Constitutional Amendments, and Intergovernmental Relations: **HB 347, SB 1**

Health and Welfare: **HB 342, 349, SB 15**

Judiciary: **HB 343**

Transportation: **HB 348, 350**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Banking and Insurance: **HB 319**

Judiciary: **HB 269**

Licensing and Occupations: **HB 341**

Report of Committees

The Committee on Health and Welfare reported **HB 72**, with Committee Substitute attached thereto, **HB 116**, with Committee Substitute attached thereto, **HB 149, HB 159, HB 160**, with Committee Substitute attached thereto, and **HB 242**, with Committee Substitute attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 72, AN ACT relating to nursing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 314.011 is amended to read as follows:

As used in KRS 314.011 to 314.161 and KRS 314.991, unless the context thereof requires otherwise:

(1) "Board" means Kentucky Board of Nursing;

(2) "Delegation" means directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision and pursuant to administrative regulations promulgated by the board in accordance with the provisions of KRS Chapter 13A;

(3) "Nurse" means a person licensed under the provisions of this chapter as a registered nurse or as a licensed practical nurse;

(4) "Nursing process" means the investigative approach to nursing practice utilizing a method of problem-solving by means of:

  (a) Nursing diagnosis, a systematic investigation of a health concern, and an analysis of the data collected in order to arrive at an identifiable problem; and

  (b) Planning, implementation, and evaluation based on nationally accepted standards of nursing practice;

(5) "Registered nurse" means one who is licensed under the provisions of this chapter to engage in registered nursing practice;

(6) "Registered nursing practice" means the performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:

  (a) The care, counsel, and health teaching of the ill, injured, or infirm;

  (b) The maintenance of health or prevention of illness of others;

  (c) The administration of medication and treatment as prescribed by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses. Components of medication administration include but are not limited to:

    1. Preparing and giving medications in the prescribed dosage, route, and frequency, including dispensing medications only as defined in subsection (17)(b) of this section;

    2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;

    3. Intervening when emergency care is required as a result of drug therapy;

    4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;

    5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and

    6. Instructing an individual regarding medications;

  (d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care; and

  (e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses;

(7) "Advanced registered nurse practitioner" means one who is registered and designated to engage in advanced registered nursing practice including the nurse anesthetist, nurse midwife, clinical nurse specialist, and nurse practitioner pursuant to KRS 314.042;

(8) "Advanced registered nursing practice" means the performance of additional acts by registered nurses who have gained added knowledge and skills through an organized postbasic program of study and clinical experience and who are certified by the American Nurses' Association or other nationally established organizations or agencies recognized by the board to certify registered nurses for advanced nursing practice. The additional acts shall, subject to approval of the board, include but not be limited to prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced registered nurse practitioners who engage in these additional acts shall be authorized to issue prescriptions for and dispense nonscheduled legend drugs as defined in KRS 217.905, under the conditions set forth in KRS 314.042. Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to obtain prescriptive authority pursuant to this chapter or any other provision of law in order to deliver anesthesia care. The

performance of these additional acts shall be consistent with the certifying organization or agencies' scopes and standards of practice recognized by the board by administrative regulation;

(9) "Licensed practical nurse" means one who is licensed under the provisions of this chapter to engage in licensed practical nursing practice;

(10) "Licensed practical nursing practice" means the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:

(a) The observing and caring for the ill, injured, or infirm under the direction of a registered nurse, a licensed physician, or dentist;

(b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board;

(c) The administration of medication or treatment as authorized by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;

(d) Teaching, supervising, and delegating except as limited by the board; and

(e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;

(11) "School of nursing" means a nursing education program preparing persons for licensure as a registered nurse or a practical nurse;

(12) "Continuing education" means offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge;

(13) "Nursing assistance" means the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse;

(14) "Sexual assault nurse examiner" means a registered nurse who has completed the required education and clinical experience and maintains a current credential from the board as provided under KRS 314.142 to conduct forensic examinations of victims of sexual offenses under the medical protocol issued by the State Medical Examiner pursuant to KRS 216B.400(4);

(15) "Competency" means the application of knowledge and skills in the utilization of critical thinking, effective communication, interventions, and caring behaviors consistent with the nurse's practice role within the context of the public's health, safety, and welfare;

(16) "Credential" means a current license, registration,[~~ or~~] certificate***, or other similar authorization*** that is issued by the board[~~ and that permits the practice of nursing~~];

(17) "Dispense" means:

(a) To receive and distribute noncontrolled legend drug samples from pharmaceutical manufacturers to patients at no charge to the patient or any other party; or

(b) To distribute noncontrolled legend drugs from a local, district, and independent health department, subject to the direction of the appropriate governing board of the individual health department;

(18) "Dialysis care" means a process by which dissolved substances are removed from a patient's body by diffusion, osmosis, and convection from one (1) fluid compartment to another across a semipermeable membrane;[~~ and~~]

(19) "Dialysis technician" means a person who is not a nurse, a physician assistant, or a physician and who provides dialysis care in a licensed renal dialysis facility under the direct, on-site supervision of a registered nurse or a physician***; and***

(20) "Clinical internship" means a supervised nursing practice experience which involves any component of direct patient care.

Section 2. KRS 314.041 is amended to read as follows:

(1) An applicant for a license to practice as a registered nurse shall file with the board a written application for a license and submit evidence, verified by oath***, that the applicant***:

(a) [~~That the applicant ~~]Has completed the basic curriculum for preparing registered nurses in an approved school of nursing and has completed requirements for graduation therefrom;

(b) Has fulfilled the requirements of KRS 214.615(1); and

(c) Is able to understandably speak and write the English language and to read the English language with comprehension.

(2) An applicant shall be required to pass an examination in any subjects as the board may determine ***and complete the clinical internship in accordance with subsection (4) of this section***. Application for licensure by examination shall be received by the board at ***the***[~~such~~] time[~~ as~~] determined[~~ by regulation~~] by the board ***by administrative regulation***.

(3) Upon ***request, an applicant who meets the requirements of subsection (1) of this section shall be issued a provisional***

license that shall expire no later than six (6) months from the date of issuance. This period of time may be extended at the discretion of the board upon the provisional licensee showing that he or she has a temporary physical or mental inability to complete the clinical internship within six (6) months. The provisional licensee shall provide evidence as requested by the board to substantiate this inability.

(4) The clinical internship shall last a minimum of one hundred twenty (120) hours and shall be completed within six (6) months of the issuance of the provisional license, unless an extension has been granted by the board pursuant to subsection (3) of this section. The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A to establish procedures applicable to the documentation of completion of the internship. The internship may be completed during a clinical orientation period in a practice setting.

(5) An individual who holds a provisional license shall have the right to use the title "registered nurse applicant" and the abbreviation "RNA." An RNA shall only work under the direct supervision of a registered nurse and shall not engage in independent nursing practice.

(6) Upon the applicant's successful completion of[~~successfully completing~~] all requirements for *registered nurse* licensure, the board may issue to the applicant a license to practice nursing as a registered nurse, if in the determination of the board the applicant is qualified to practice as a registered nurse in this state.

(7)[~~(4)~~] The board may issue a license to practice nursing as a registered nurse to any applicant who has passed the examination prescribed by the board or its equivalent and been licensed as a registered nurse under the laws of another state, territory, or foreign country, if in the opinion of the board the applicant is qualified to practice as a registered nurse in this state. *An applicant who has not practiced as a registered nurse in another state or territory for at least one hundred twenty (120) hours within the first year following graduation from a school of nursing shall be required to complete the clinical internship in accordance with subsection (4) of this section. The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A establishing the provisions to meet this requirement.*

(8)[~~(5)~~] The applicant for licensure to practice as a registered nurse shall pay a licensure application fee, and examination fees if applicable, as set forth in a regulation by the board promulgated pursuant to the provisions of KRS Chapter 13A.

(9)[~~(6)~~] Any person who holds a license to practice as a registered nurse in this state shall have the right to use the title "registered nurse" and the abbreviation "R.N." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a registered nurse. No person shall practice as a registered nurse unless licensed under this section.

(10)[~~(7)~~] Those persons previously licensed by the board and not engaged in the practice of nursing in the Commonwealth of Kentucky, but desiring to maintain the right to use the title "R.N." may apply and be granted inactive status by the board in accordance with regulations promulgated by the board. Inactive status shall be renewed in accordance with regulations promulgated by the board in accordance with KRS Chapter 13A and those persons granted inactive status shall not be governed by the continuing competency provisions contained in this chapter. A registered nurse on inactive status may petition the board for a renewal of a license to actively practice and shall complete the requirements as established in KRS Chapter 314 and by regulation of the board.

(11)[~~(8)~~] Any person heretofore licensed as a registered nurse under the licensing laws of this state who has allowed the license to lapse by failure to renew may apply for reinstatement of the license under the provisions of this chapter.

(12)[~~(9)~~] A license to practice registered nursing may be limited by the board in accordance with regulations promulgated by the board and as defined in this chapter.

(13) A graduate of an approved prelicensure registered nurse program who has not successfully completed the licensure examination for registered nurses shall be eligible for admission to the licensure examination for licensed practical nurses following successful completion of a board-approved practical nursing role delineation course. This course shall include content on the roles and responsibilities of a licensed practical nurse and direct supervised clinical instruction.

(14) A person who has completed a prelicensure registered nurse program and holds a current, active licensed practical nurse license from another jurisdiction may apply for licensure by endorsement as a licensed practical nurse in this state.

Section 3. KRS 314.051 is amended to read as follows:

(1) An applicant for a license to practice as a licensed practical nurse shall file with the board a written application for a license verified by oath, that the applicant:

(a) Has fulfilled the requirements of KRS 214.615(1);

(b) Has completed the required educational program in practical nursing at an approved school of nursing and has completed requirements for graduation therefrom; and

(c) Is able to understandably speak and write the English language and to read the English language with comprehension.

(2) The applicant for licensure to practice as a licensed practical nurse shall pay a licensure application fee, and examination fees if applicable, as set forth in a regulation by the board.

(3) An applicant shall be required to pass an examination in any subjects the board may determine *and complete the clinical internship in accordance with subsection (5) of this section*. Application for licensure by examination shall be received by the board at the time[~~ as~~] determined[~~ by regulation~~] by the board *by administrative regulation*.

(4) *Upon request, an applicant who meets the requirements of subsection (1) of this section shall be issued a provisional license that shall expire no later than six (6) months from the date of issuance. This period of time may be extended at the discretion of the board upon the provisional licensee showing that he or she has a temporary physical or mental inability to complete the clinical internship within six (6) months. The provisional licensee shall provide evidence as requested by the board to substantiate this inability.*

(5) The clinical internship shall last a minimum of one hundred twenty (120) hours and shall be completed within six (6) months of the issuance of the provisional license, unless an extension has been granted by the board pursuant to subsection (4) of this section. The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A to establish procedures applicable to the documentation of completion of the internship. The internship may be completed during a clinical orientation period in a practice setting.

(6) An individual who holds a provisional license shall have the right to use the title "licensed practical nurse applicant" and the abbreviation "LPNA." An LPNA shall only work under the direct supervision of a nurse and shall not engage in independent nursing practice.

(7) Upon *the applicant's successful completion of*[~~successfully completing~~] all requirements for *licensed practical nurse* licensure, the board may issue to the applicant a license to practice as a licensed practical nurse if, in the determination of the board, the applicant is qualified to practice as a licensed practical nurse in this state.

(8)[~~(5)~~] The board may issue a license to practice as a licensed practical nurse to any applicant who has passed the examination prescribed by the board or its equivalent, and has been licensed or registered as a licensed practical nurse or a person licensed to perform similar services under a different title, under the laws of another state, territory or foreign country if, in the opinion of the board, the applicant meets the requirements for a licensed practical nurse in this state. *An applicant who has not practiced as a licensed practical nurse in another state or territory for at least one hundred twenty (120) hours within the first year following graduation from a school of nursing shall be required to complete the clinical internship in accordance with subsection (5) of this section. The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A establishing the provisions to meet this requirement.*

(9)[~~(6)~~] Any person who holds a license to practice as a licensed practical nurse in this state shall have the right to use the title "licensed practical nurse" and the abbreviation "L.P.N." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a licensed practical nurse. No person shall practice as a licensed practical nurse unless licensed under this chapter.

(10)[~~(7)~~] Those persons previously licensed by the board and not engaged in the practice of nursing in the Commonwealth of Kentucky, but desiring to maintain the right to use the title "L.P.N." may apply and be granted inactive status by the board in accordance with regulations promulgated by the board. Inactive status shall be renewed in accordance with administrative regulations promulgated by the board in accordance with KRS Chapter 13A, and those persons granted inactive status shall not be governed by the continuing competency provisions contained in this chapter. A licensed practical nurse on inactive status may petition the board for a renewal of a license to actively practice and shall complete the requirements as established in this chapter and by regulation of the board.

(11)[~~(8)~~] Any person heretofore licensed as a practical nurse under the licensing laws of this state who has allowed the license to lapse by failure to renew may apply for reinstatement of the license under the provisions of this chapter.

(12)[~~(9)~~] A license to practice practical nursing may be limited by the board in accordance with regulations promulgated by the board and as defined in this chapter.

Section 4. KRS 314.071 is amended to read as follows:

(1) The license of every person issued under the provisions of this chapter shall be renewed *for a period of time as determined by the board by administrative regulation promulgated pursuant to KRS Chapter 13A*[~~at least biennially~~] except as hereinafter provided.[~~ At least six (6) weeks before the renewal date the board shall mail an application for renewal to every person to whom a license was issued during the current licensure period.~~] The applicant shall fill in the application form and return it to the board with the renewal fee prescribed by the board in a regulation before the expiration date of his current license. Upon receipt of the application and fee the board shall verify the accuracy of the application to determine whether the licensee has met all the requirements as set forth in this chapter and in regulations promulgated by the board, and if so, shall issue to the applicant a license to practice for the ensuing licensure period. Such license shall render the holder a legal practitioner of nursing for the period stated on it. The board shall prescribe by regulation the beginning and ending of the licensure period.

(2) Any licensee who allows his license to lapse by failing to renew the license as provided above may be reinstated by the board on payment of current fee for original licensure and by meeting the regulations of the board.

(3) *Notice that the license must be renewed*[~~An application for renewal of license~~] shall be sent to the last known address of each licensee *at least six (6) weeks before the expiration date of the license*.

(4) Any person practicing nursing during the time the license has lapsed shall be considered an illegal practitioner and shall be

subject to the penalties provided for violations of the provisions of this chapter.

Section 5. KRS 314.075 is amended to read as follows:

(1) If a licensee issues payment for a~~[biennial]~~ license to the board by a bank check that is dishonored by the bank or financial institution upon which it is drawn, and the licensee fails to reimburse the board for the amount of the check and any applicable fee within thirty (30) days of written notice from the board, the board may initiate action for the immediate temporary suspension of the license under KRS 314.089 until the licensee pays the required fee and meets all requirements for reinstatement of the license. The board shall mail written notice of the dishonored check to the licensee's address on record with the board.

(2) A licensee whose license is suspended under subsection (1) of this section may request an emergency hearing under the provisions of KRS 13B.125.

(3) Nothing in this section shall supersede the provisions of KRS 314.091.

Section 6. KRS 314.089 is amended to read as follows:

(1) The board's president or the president's designee may determine that immediate temporary suspension of a license against which disciplinary action or an investigation is pending is necessary in order to protect the public. When it appears that this action may be necessary, the executive director or the executive director's designee shall issue an emergency order suspending the nurse's license. Upon appeal of an emergency order, an emergency hearing shall be conducted in accordance with KRS 13B.125.

(2) No board member shall be disqualified from serving on a disciplinary action hearing panel for the reason that he has previously sat on a hearing panel considering temporary suspension of the same license.

(3) The board shall expedite disciplinary actions in which a license has been temporarily suspended.

(4) The order of immediate temporary suspension shall remain in effect until either reconsidered or superseded by final disciplinary action by the board.~~[In cases where disciplinary action is imposed the board may additionally order that the temporary suspension continue in effect until the later of expiration of the time permitted for appeal or termination of the appellate process.]~~

Section 7. KRS 314.091 is amended to read as follows:

(1) The board shall have power to reprimand, deny, limit, revoke, probate, or suspend any license or credential to practice nursing issued by the board or applied for in accordance with this chapter, or to otherwise discipline a licensee, credential holder, or applicant, or to deny admission to the licensure examination, or to require evidence of evaluation and therapy upon proof that the person:

- (a) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing;
- (b) Has been convicted of ***any felony, or a misdemeanor involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm or endangerment to others, or dishonesty, under the laws of any state or of the United States. The record of conviction or a copy thereof, certified by the clerk of the court or by the judge who presided over the conviction, shall be conclusive evidence. For the purposes of this section, "conviction" means but is not limited to pleading no contest, entering an Alford plea, or entry of a court order suspending the imposition of a criminal penalty to a crime***~~[a misdemeanor or felony which involved fraud, deceit, a breach of trust, or physical harm or endangerment to others, acts that bear directly on the qualifications or ability of the applicant or licensee to practice nursing]~~;
- (c) Has been convicted of a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, 530.064, or 531.310, or has been found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the nurse;
- (d) Has negligently or willfully acted in a manner inconsistent with the practice of nursing;
- (e) Is unfit or incompetent to practice nursing by reason of negligence or other causes, including but not limited to, being unable to practice nursing with reasonable skill or safety;
- (f) Abuses use of controlled substances, prescription medications, or alcohol;
- (g) Has misused or misappropriated any drugs placed in the custody of the nurse for administration, or for use of others;
- (h) Has falsified or in a negligent manner made incorrect entries or failed to make essential entries on essential records;
- (i) Has a license or credential to practice as a nurse denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth***, including action by another jurisdiction for failure to repay a student loan***;
- (j) Has violated any of the provisions of this chapter;
- (k) Has violated any lawful order or directive previously entered by the board;
- (l) Has violated any administrative regulation promulgated by the board; or

(m) Has been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property.

(2) All hearings shall be conducted in accordance with KRS Chapter 13B. A suspended or revoked license or credential may be reinstated at the discretion of the board, and in accordance with regulations promulgated by the board.

(3) The executive director may issue subpoenas to compel the attendance of witnesses and the production of documents in the conduct of an investigation. The subpoenas may be enforced by the Circuit Court as for contempt. Any order or subpoena of the court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.

(4) At all hearings on request of the board the Attorney General of this state or one (1) of the assistant attorneys general designated by the Attorney General shall appear and represent the board.

(5) A final order of the board shall be by majority vote thereof.

(6) Any person adversely affected by any final order of the board may obtain a review thereof by filing a written petition for review with the Circuit Court of the county in which the board's offices are located in accordance with KRS Chapter 13B.

(7) If the board substantiates that sexual contact occurred between a nurse and a patient while the patient was under the care of or in a professional relationship with the nurse, the nurse's license or credential may be revoked or suspended with mandatory treatment of the nurse as prescribed by the board. The board may require the nurse to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.

Section 8. KRS 314.099 is amended to read as follows:

Jurisdiction, both as to person and subject matter, under KRS 314.011 to 314.161 vests with the board upon application for licensure and shall continue during periods of licensure and lapse of licensure. The jurisdiction of the board shall be continuous over the individual applicant or licensee and shall not be divested by voluntary surrender of a license***,***[~~ or~~] withdrawal of an application***, or expiration of a temporary work permit***.

Section 9. KRS 314.101 is amended to read as follows:

(1) This chapter does not prohibit: the furnishing of nursing assistance in an emergency; the practice of nursing which is incidental to the program of study by individuals enrolled in nursing education programs and refresher courses approved by the board or in graduate programs in nursing; the practice of any legally qualified nurse of another state who is employed by the United States government or any bureau, division, or agency thereof while in the discharge of his or her official duties; or the practice of any currently licensed nurse of another state whose responsibilities include transporting patients into, out of, or through this state.

(2) Nothing in this chapter shall be construed as prohibiting care of the sick with or without compensation or personal profit when done in connection with the practice of the religious tenets of any recognized or established church by adherents thereof as long as they do not engage in the practice of nursing as defined in this chapter.

(3) Nothing in this chapter shall limit, preclude, or otherwise restrict the practices of other licensed personnel in carrying out their duties under the terms of their licenses.

(4) A temporary work permit may be issued by the board to persons who have completed the requirements for, applied for, and paid the fee for licensure by[~~ examination or~~] endorsement. Temporary work permits shall be issued only for the length of time required to process applications for endorsement[~~ or, in the case of applications for licensure by examination, for no longer than six (6) months from the first day of the month following completion of the program of nursing requirements,~~] and shall not be renewed. No temporary work permit shall be issued to an applicant who has failed the licensure examination.

(5) The board may summarily withdraw a temporary work permit upon determination that the person does not meet the requirements for licensure or has disciplinary action pending against the person's license in this or another jurisdiction.

[~~(6) A new graduate who holds a temporary work permit shall have the right to use the title "registered nurse applicant" and the abbreviation "RN App" or "licensed practical nurse applicant" and the abbreviation "LPN App" according to the type of permit issued.~~

~~(7) Any nurse educated outside the United States who has passed the state board test pool examination or its equivalent as determined by the board may be issued a temporary work permit.~~]

Section 10. KRS 314.109 is amended to read as follows:

Any person ***under the jurisdiction of***[~~licensed by~~] the board shall, within thirty (30) days of entry of the final judgment, notify the board in writing of any misdemeanor or felony criminal conviction***, except traffic-related misdemeanors other than operating a motor vehicle under the influence of drugs or alcohol,*** in this or any other jurisdiction. Upon learning of any failure to notify the board under this section, the board may initiate an action for immediate temporary suspension under KRS 314.089 until the person submits the required notification.

Section 11. The amendments to subsections (2) to (5) and (7) of Section 2 and subsections (3) to (6) and (8) of Section 3 of this Act shall take effect on January 1, 2006.

The Committee Substitute to **HB 72** is as follows:

HB 72, AN ACT relating to nursing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 314.011 is amended to read as follows:

As used in KRS 314.011 to 314.161 and KRS 314.991, unless the context thereof requires otherwise:

(1) "Board" means Kentucky Board of Nursing;

(2) "Delegation" means directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision and pursuant to administrative regulations promulgated by the board in accordance with the provisions of KRS Chapter 13A;

(3) "Nurse" means a person licensed under the provisions of this chapter as a registered nurse or as a licensed practical nurse;

(4) "Nursing process" means the investigative approach to nursing practice utilizing a method of problem-solving by means of:

(a) Nursing diagnosis, a systematic investigation of a health concern, and an analysis of the data collected in order to arrive at an identifiable problem; and

(b) Planning, implementation, and evaluation based on nationally accepted standards of nursing practice;

(5) "Registered nurse" means one who is licensed under the provisions of this chapter to engage in registered nursing practice;

(6) "Registered nursing practice" means the performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:

(a) The care, counsel, and health teaching of the ill, injured, or infirm;

(b) The maintenance of health or prevention of illness of others;

(c) The administration of medication and treatment as prescribed by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses. Components of medication administration include but are not limited to:

1. Preparing and giving medications in the prescribed dosage, route, and frequency, including dispensing medications only as defined in subsection (17)(b) of this section;

2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;

3. Intervening when emergency care is required as a result of drug therapy;

4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;

5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and

6. Instructing an individual regarding medications;

(d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care; and

(e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses;

(7) "Advanced registered nurse practitioner" means one who is registered and designated to engage in advanced registered nursing practice including the nurse anesthetist, nurse midwife, clinical nurse specialist, and nurse practitioner pursuant to KRS 314.042;

(8) "Advanced registered nursing practice" means the performance of additional acts by registered nurses who have gained added knowledge and skills through an organized postbasic program of study and clinical experience and who are certified by the American Nurses' Association or other nationally established organizations or agencies recognized by the board to certify registered nurses for advanced nursing practice. The additional acts shall, subject to approval of the board, include but not be limited to prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced registered nurse practitioners who engage in these additional acts shall be authorized to issue prescriptions for and dispense nonscheduled legend drugs as defined in KRS 217.905, under the conditions set forth in KRS 314.042. Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to obtain prescriptive authority pursuant to this chapter or any other provision of law in order to deliver anesthesia care. The performance of these additional acts shall be consistent with the certifying organization or agencies' scopes and standards of practice recognized by the board by administrative regulation;

(9) "Licensed practical nurse" means one who is licensed under the provisions of this chapter to engage in licensed practical nursing practice;

(10) "Licensed practical nursing practice" means the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:

(a) The observing and caring for the ill, injured, or infirm under the direction of a registered nurse, a licensed physician, or dentist;

(b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board;

(c) The administration of medication or treatment as authorized by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;

(d) Teaching, supervising, and delegating except as limited by the board; and

(e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;

(11) "School of nursing" means a nursing education program preparing persons for licensure as a registered nurse or a practical nurse;

(12) "Continuing education" means offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge;

(13) "Nursing assistance" means the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse;

(14) "Sexual assault nurse examiner" means a registered nurse who has completed the required education and clinical experience and maintains a current credential from the board as provided under KRS 314.142 to conduct forensic examinations of victims of sexual offenses under the medical protocol issued by the State Medical Examiner pursuant to KRS 216B.400(4);

(15) "Competency" means the application of knowledge and skills in the utilization of critical thinking, effective communication, interventions, and caring behaviors consistent with the nurse's practice role within the context of the public's health, safety, and welfare;

(16) "Credential" means a current license, registration,~~[or]~~ certificate***, or other similar authorization*** that is issued by the board~~[and that permits the practice of nursing]~~;

(17) "Dispense" means:

(a) To receive and distribute noncontrolled legend drug samples from pharmaceutical manufacturers to patients at no charge to the patient or any other party; or

(b) To distribute noncontrolled legend drugs from a local, district, and independent health department, subject to the direction of the appropriate governing board of the individual health department;

(18) "Dialysis care" means a process by which dissolved substances are removed from a patient's body by diffusion, osmosis, and convection from one (1) fluid compartment to another across a semipermeable membrane;~~[and]~~

(19) "Dialysis technician" means a person who is not a nurse, a physician assistant, or a physician and who provides dialysis care in a licensed renal dialysis facility under the direct, on-site supervision of a registered nurse or a physician***; and***

(20) "Clinical internship" means a supervised nursing practice experience which involves any component of direct patient care.

Section 2. KRS 314.041 is amended to read as follows:

(1) An applicant for a license to practice as a registered nurse shall file with the board a written application for a license and submit evidence, verified by oath***, that the applicant***:

(a) ~~[That the applicant]~~Has completed the basic curriculum for preparing registered nurses in an approved school of nursing and has completed requirements for graduation therefrom;

(b) Has fulfilled the requirements of KRS 214.615(1); and

(c) Is able to understandably speak and write the English language and to read the English language with comprehension.

(2) An applicant shall be required to pass an examination in any subjects as the board may determine ***and beginning January 1, 2006, complete the clinical internship in accordance with subsection (4) of this section***. Application for licensure by examination shall be received by the board at ***the***~~[such]~~ time~~[as]~~ determined~~[by regulation]~~ by the board ***by administrative regulation***.

(3) Upon ***request, an applicant who meets the requirements of subsection (1) of this section shall be issued a provisional license that shall expire no later than six (6) months from the date of issuance. This period of time may be extended at the discretion of the board upon the provisional licensee showing that he or she has a temporary physical or mental inability to complete the clinical internship within six (6) months. The provisional licensee shall provide evidence as***

requested by the board to substantiate this inability.

(4) The clinical internship shall last a minimum of one hundred twenty (120) hours and shall be completed within six (6) months of the issuance of the provisional license, unless an extension has been granted by the board pursuant to subsection (3) of this section. The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A to establish procedures applicable to the documentation of completion of the internship. The internship may be completed during a clinical orientation period in a practice setting.

(5) An individual who holds a provisional license shall have the right to use the title "registered nurse applicant" and the abbreviation "RNA." An RNA shall only work under the direct supervision of a registered nurse and shall not engage in independent nursing practice.

(6) Upon the applicant's successful completion of[~~successfully completing~~] all requirements for *registered nurse* licensure, the board may issue to the applicant a license to practice nursing as a registered nurse, if in the determination of the board the applicant is qualified to practice as a registered nurse in this state.

(7)[~~(4)~~] The board may issue a license to practice nursing as a registered nurse to any applicant who has passed the examination prescribed by the board or its equivalent and been licensed as a registered nurse under the laws of another state, territory, or foreign country, if in the opinion of the board the applicant is qualified to practice as a registered nurse in this state. *An applicant who has not practiced as a registered nurse in another state or territory for at least one hundred twenty (120) hours within the first year following graduation from a school of nursing shall be required to complete the clinical internship in accordance with subsection (4) of this section. The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A establishing the provisions to meet this requirement.*

(8)[~~(5)~~] The applicant for licensure to practice as a registered nurse shall pay a licensure application fee, and examination fees if applicable, as set forth in a regulation by the board promulgated pursuant to the provisions of KRS Chapter 13A.

(9)[~~(6)~~] Any person who holds a license to practice as a registered nurse in this state shall have the right to use the title "registered nurse" and the abbreviation "R.N." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a registered nurse. No person shall practice as a registered nurse unless licensed under this section.

(10) (a)[~~(7)~~] *Until November 1, 2006,* those persons previously licensed by the board and not engaged in the practice of nursing in the Commonwealth of Kentucky, but desiring to maintain the right to use the title "R.N." may apply and be granted inactive status by the board in accordance with regulations promulgated by the board. Inactive status shall be renewed in accordance with regulations promulgated by the board in accordance with KRS Chapter 13A and those persons granted inactive status shall not be governed by the continuing competency provisions contained in this chapter. A registered nurse on inactive status may petition the board for a renewal of a license to actively practice and shall complete the requirements as established in KRS Chapter 314 and by regulation of the board. *Inactive status licenses shall not be issued for renewal after October 31, 2006.*

(b) On November 1, 2006, and thereafter, a registered nurse, age sixty-five (65) or older and retired, upon payment of a one-time fee, may apply for a special license in recognition of the nurse's retired status. A retired nurse may not practice nursing but may use the title "registered nurse" and the abbreviation "R.N."

(c) A retired registered nurse who wishes to return to the practice of nursing shall apply for reinstatement.

(d) The board shall promulgate an administrative regulation pursuant to KRS Chapter 13A to specify the fee required in paragraph (b) and reinstatement under paragraph (c) of this subsection.

(11)[~~(8)~~] Any person heretofore licensed as a registered nurse under the licensing laws of this state who has allowed the license to lapse by failure to renew may apply for reinstatement of the license under the provisions of this chapter.

(12)[~~(9)~~] A license to practice registered nursing may be limited by the board in accordance with regulations promulgated by the board and as defined in this chapter.

(13) A graduate of an approved prelicensure registered nurse program who has not successfully completed the licensure examination for registered nurses shall be eligible for admission to the licensure examination for licensed practical nurses following successful completion of a board-approved practical nursing role delineation course. This course shall include content on the roles and responsibilities of a licensed practical nurse and direct supervised clinical instruction.

(14) A person who has completed a prelicensure registered nurse program and holds a current, active licensed practical nurse license from another jurisdiction may apply for licensure by endorsement as a licensed practical nurse in this state.

Section 3. KRS 314.051 is amended to read as follows:

(1) An applicant for a license to practice as a licensed practical nurse shall file with the board a written application for a license verified by oath, that the applicant:

(a) Has fulfilled the requirements of KRS 214.615(1);

(b) Has completed the required educational program in practical nursing at an approved school of nursing and has completed requirements for graduation therefrom; and

(c) Is able to understandably speak and write the English language and to read the English language with comprehension.

(2) The applicant for licensure to practice as a licensed practical nurse shall pay a licensure application fee, and examination fees if applicable, as set forth in a regulation by the board.

(3) An applicant shall be required to pass an examination in any subjects the board may determine *and beginning January 1, 2006, complete the clinical internship in accordance with subsection (5) of this section*. Application for licensure by examination shall be received by the board at the time~~[as]~~ determined~~[by regulation]~~ by the board *by administrative regulation*.

(4) Upon request, an applicant who meets the requirements of subsection (1) of this section shall be issued a provisional license that shall expire no later than six (6) months from the date of issuance. This period of time may be extended at the discretion of the board upon the provisional licensee showing that he or she has a temporary physical or mental inability to complete the clinical internship within six (6) months. The provisional licensee shall provide evidence as requested by the board to substantiate this inability.

(5) The clinical internship shall last a minimum of one hundred twenty (120) hours and shall be completed within six (6) months of the issuance of the provisional license, unless an extension has been granted by the board pursuant to subsection (4) of this section. The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A to establish procedures applicable to the documentation of completion of the internship. The internship may be completed during a clinical orientation period in a practice setting.

(6) An individual who holds a provisional license shall have the right to use the title "licensed practical nurse applicant" and the abbreviation "LPNA." An LPNA shall only work under the direct supervision of a nurse and shall not engage in independent nursing practice.

(7) Upon *the applicant's successful completion of*~~[successfully completing]~~ all requirements for *licensed practical nurse* licensure, the board may issue to the applicant a license to practice as a licensed practical nurse if, in the determination of the board, the applicant is qualified to practice as a licensed practical nurse in this state.

(8)~~[(5)]~~ The board may issue a license to practice as a licensed practical nurse to any applicant who has passed the examination prescribed by the board or its equivalent, and has been licensed or registered as a licensed practical nurse or a person licensed to perform similar services under a different title, under the laws of another state, territory or foreign country if, in the opinion of the board, the applicant meets the requirements for a licensed practical nurse in this state. *An applicant who has not practiced as a licensed practical nurse in another state or territory for at least one hundred twenty (120) hours within the first year following graduation from a school of nursing shall be required to complete the clinical internship in accordance with subsection (5) of this section. The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A establishing the provisions to meet this requirement.*

(9)~~[(6)]~~ Any person who holds a license to practice as a licensed practical nurse in this state shall have the right to use the title "licensed practical nurse" and the abbreviation "L.P.N." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a licensed practical nurse. No person shall practice as a licensed practical nurse unless licensed under this chapter.

(10) (a)~~[(7)]~~ *Until November 1, 2005,* those persons previously licensed by the board and not engaged in the practice of nursing in the Commonwealth of Kentucky, but desiring to maintain the right to use the title "L.P.N." may apply and be granted inactive status by the board in accordance with regulations promulgated by the board. Inactive status shall be renewed in accordance with administrative regulations promulgated by the board in accordance with KRS Chapter 13A, and those persons granted inactive status shall not be governed by the continuing competency provisions contained in this chapter. A licensed practical nurse on inactive status may petition the board for a renewal of a license to actively practice and shall complete the requirements as established in this chapter and by regulation of the board. *Inactive status licenses shall not be issued for renewal after October 31, 2005.*

(b) Beginning November 1, 2005, a licensed practical nurse, age sixty-five (65) or older and retired, upon payment of a one-time fee, the board may issue a special license to a licensed practical nurse in recognition of the nurse's retired status. A retired nurse may not practice nursing but may use the title "licensed practical nurse" and the abbreviation "L.P.N."

(c) A retired licensed practical nurse who wishes to return to the practice of nursing shall apply for reinstatement.

(d) The board shall promulgate an administrative regulation pursuant to KRS Chapter 13A to specify the fee required in paragraph (b) and reinstatement under paragraph (c) of this subsection.

(11)~~[(8)]~~ Any person heretofore licensed as a practical nurse under the licensing laws of this state who has allowed the license to lapse by failure to renew may apply for reinstatement of the license under the provisions of this chapter.

(12)~~[(9)]~~ A license to practice practical nursing may be limited by the board in accordance with regulations promulgated by the board and as defined in this chapter.

Section 4. KRS 314.071 is amended to read as follows:

(1) The license of every person issued under the provisions of this chapter shall be renewed *for a period of time as determined by the board by administrative regulation promulgated pursuant to KRS Chapter 13A*~~[at least biennially]~~

except as hereinafter provided.[~~ At least six (6) weeks before the renewal date the board shall mail an application for renewal to every person to whom a license was issued during the current licensure period.~~] The applicant shall fill in the application form and return it to the board with the renewal fee prescribed by the board in a regulation before the expiration date of his current license. Upon receipt of the application and fee the board shall verify the accuracy of the application to determine whether the licensee has met all the requirements as set forth in this chapter and in regulations promulgated by the board, and if so, shall issue to the applicant a license to practice for the ensuing licensure period. Such license shall render the holder a legal practitioner of nursing for the period stated on it. The board shall prescribe by regulation the beginning and ending of the licensure period.

(2) Any licensee who allows his license to lapse by failing to renew the license as provided above may be reinstated by the board on payment of current fee for original licensure and by meeting the regulations of the board.

(3) ***Notice that the license must be renewed***[~~An application for renewal of license~~] shall be sent to the last known address of each licensee ***at least six (6) weeks before the expiration date of the license***.

(4) Any person practicing nursing during the time the license has lapsed shall be considered an illegal practitioner and shall be subject to the penalties provided for violations of the provisions of this chapter.

Section 5. KRS 314.075 is amended to read as follows:

(1) If a licensee issues payment for a[~~ biennial~~] license to the board by a bank check that is dishonored by the bank or financial institution upon which it is drawn, and the licensee fails to reimburse the board for the amount of the check and any applicable fee within thirty (30) days of written notice from the board, the board may initiate action for the immediate temporary suspension of the license under KRS 314.089 until the licensee pays the required fee and meets all requirements for reinstatement of the license. The board shall mail written notice of the dishonored check to the licensee's address on record with the board.

(2) A licensee whose license is suspended under subsection (1) of this section may request an emergency hearing under the provisions of KRS 13B.125.

(3) Nothing in this section shall supersede the provisions of KRS 314.091.

Section 6. KRS 314.089 is amended to read as follows:

(1) The board's president or the president's designee may determine that immediate temporary suspension of a license against which disciplinary action or an investigation is pending is necessary in order to protect the public. When it appears that this action may be necessary, the executive director or the executive director's designee shall issue an emergency order suspending the nurse's license. Upon appeal of an emergency order, an emergency hearing shall be conducted in accordance with KRS 13B.125.

(2) No board member shall be disqualified from serving on a disciplinary action hearing panel for the reason that he has previously sat on a hearing panel considering temporary suspension of the same license.

(3) The board shall expedite disciplinary actions in which a license has been temporarily suspended.

(4) The order of immediate temporary suspension shall remain in effect until either reconsidered or superseded by final disciplinary action by the board.[~~ In cases where disciplinary action is imposed the board may additionally order that the temporary suspension continue in effect until the later of expiration of the time permitted for appeal or termination of the appellate process.~~]

Section 7. KRS 314.091 is amended to read as follows:

(1) The board shall have power to reprimand, deny, limit, revoke, probate, or suspend any license or credential to practice nursing issued by the board or applied for in accordance with this chapter, or to otherwise discipline a licensee, credential holder, or applicant, or to deny admission to the licensure examination, or to require evidence of evaluation and therapy upon proof that the person:

(a) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing;

(b) Has been convicted of ***any felony, or a misdemeanor involving drugs, alcohol, fraud, deceit, falsification of records, a breach of trust, physical harm or endangerment to others, or dishonesty, under the laws of any state or of the United States. The record of conviction or a copy thereof, certified by the clerk of the court or by the judge who presided over the conviction, shall be conclusive evidence. For the purposes of this section, "conviction" means but is not limited to pleading no contest, entering an Alford plea, or entry of a court order suspending the imposition of a criminal penalty to a crime***[~~a misdemeanor or felony which involved fraud, deceit, a breach of trust, or physical harm or endangerment to others, acts that bear directly on the qualifications or ability of the applicant or licensee to practice nursing~~];

(c) Has been convicted of a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, 530.064, or 531.310, or has been found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the nurse;

(d) Has negligently or willfully acted in a manner inconsistent with the practice of nursing;

(e) Is unfit or incompetent to practice nursing by reason of negligence or other causes, including but not limited to, being unable to practice nursing with reasonable skill or safety;

(f) Abuses use of controlled substances, prescription medications, or alcohol;

(g) Has misused or misappropriated any drugs placed in the custody of the nurse for administration, or for use of others;

(h) Has falsified or in a negligent manner made incorrect entries or failed to make essential entries on essential records;

(i) Has a license or credential to practice as a nurse denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth***, including action by another jurisdiction for failure to repay a student loan***;

(j) Has violated any of the provisions of this chapter;

(k) Has violated any lawful order or directive previously entered by the board;

(l) Has violated any administrative regulation promulgated by the board; or

(m) Has been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property.

(2) All hearings shall be conducted in accordance with KRS Chapter 13B. A suspended or revoked license or credential may be reinstated at the discretion of the board, and in accordance with regulations promulgated by the board.

(3) The executive director may issue subpoenas to compel the attendance of witnesses and the production of documents in the conduct of an investigation. The subpoenas may be enforced by the Circuit Court as for contempt. Any order or subpoena of the court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.

(4) At all hearings on request of the board the Attorney General of this state or one (1) of the assistant attorneys general designated by the Attorney General shall appear and represent the board.

(5) A final order of the board shall be by majority vote thereof.

(6) Any person adversely affected by any final order of the board may obtain a review thereof by filing a written petition for review with the Circuit Court of the county in which the board's offices are located in accordance with KRS Chapter 13B.

(7) If the board substantiates that sexual contact occurred between a nurse and a patient while the patient was under the care of or in a professional relationship with the nurse, the nurse's license or credential may be revoked or suspended with mandatory treatment of the nurse as prescribed by the board. The board may require the nurse to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.

Section 8. KRS 314.099 is amended to read as follows:

Jurisdiction, both as to person and subject matter, under KRS 314.011 to 314.161 vests with the board upon application for licensure and shall continue during periods of licensure and lapse of licensure. The jurisdiction of the board shall be continuous over the individual applicant or licensee and shall not be divested by voluntary surrender of a license***,***[~~ or~~] withdrawal of an application***, or expiration of a temporary work permit***.

Section 9. KRS 314.101 is amended to read as follows:

(1) This chapter does not prohibit: the furnishing of nursing assistance in an emergency; the practice of nursing which is incidental to the program of study by individuals enrolled in nursing education programs and refresher courses approved by the board or in graduate programs in nursing; the practice of any legally qualified nurse of another state who is employed by the United States government or any bureau, division, or agency thereof while in the discharge of his or her official duties; or the practice of any currently licensed nurse of another state whose responsibilities include transporting patients into, out of, or through this state.

(2) Nothing in this chapter shall be construed as prohibiting care of the sick with or without compensation or personal profit when done in connection with the practice of the religious tenets of any recognized or established church by adherents thereof as long as they do not engage in the practice of nursing as defined in this chapter.

(3) Nothing in this chapter shall limit, preclude, or otherwise restrict the practices of other licensed personnel in carrying out their duties under the terms of their licenses.

(4) A temporary work permit may be issued by the board to persons who have completed the requirements for, applied for, and paid the fee for licensure by[~~ examination or~~] endorsement. Temporary work permits shall be issued only for the length of time required to process applications for endorsement[~~ or, in the case of applications for licensure by examination, for no longer than six (6) months from the first day of the month following completion of the program of nursing requirements,~~] and shall not be renewed. No temporary work permit shall be issued to an applicant who has failed the licensure examination.

(5) The board may summarily withdraw a temporary work permit upon determination that the person does not meet the requirements for licensure or has disciplinary action pending against the person's license in this or another jurisdiction.

[~~(6) A new graduate who holds a temporary work permit shall have the right to use the title "registered nurse applicant" and the abbreviation "RN App" or "licensed practical nurse applicant" and the abbreviation "LPN App" according to the type of permit issued.~~]

~~(7) Any nurse educated outside the United States who has passed the state board test pool examination or its equivalent as determined by the board may be issued a temporary work permit.]~~

Section 10. KRS 314.108 is amended to read as follows:

Any person licensed by the board shall*, within thirty (30) days of the entry of a final order,*~~[immediately]~~ notify the board in writing if any professional or business license that is issued to the person by any agency of the Commonwealth or any other jurisdiction is surrendered or terminated under threat of disciplinary action or is refused, suspended, or revoked, or if renewal of continuance is denied. *The person shall submit a certified copy of the order and a letter of explanation.*

Section 11. KRS 314.109 is amended to read as follows:

Any person *under the jurisdiction of*~~[licensed by]~~ the board shall, within thirty (30) days of entry of the final judgment, notify the board in writing of any misdemeanor or felony criminal conviction*, except traffic-related misdemeanors other than operating a motor vehicle under the influence of drugs or alcohol,* in this or any other jurisdiction. *The person shall submit a certified copy of the order and a letter of explanation.* Upon learning of any failure to notify the board under this section, the board may initiate an action for immediate temporary suspension under KRS 314.089 until the person submits the required notification.

HB 116, AN ACT relating to the Kentucky Independence Plus through Consumer-Directed Services Program Act of 2004.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 205.510 TO 205.645 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act, unless the context otherwise requires:

(1) "Budget allowance" means the amount of money made available each month to a consumer to purchase covered long-term care services. The amount of money shall not exceed the amount that would have been allocated in the traditional Medicaid program for nonresidential and nonmedical services for the consumer;

(2) "Consumer" means a person who has chosen to participate in the program, has met the enrollment requirements, and has received an approved budget allowance;

(3) "Covered long-term care services" means those long-term care services that are eligible for reimbursement under the program and that are approved for the consumer following a functional needs assessment;

(4) "Fiscal intermediary" means an entity approved by the cabinet that helps the consumer manage his or her budget allowance, retains the funds, processes any employment and tax information, reviews records to ensure correctness, writes paychecks to providers, and delivers paychecks or electronically transfers funds to the consumer for distribution to providers and caregivers;

(5) "Provider" means:

(a) A person or agency licensed or otherwise permitted to render services eligible for reimbursement under this program for whom the consumer is not the employer of record; or

(b) A consumer-employed caregiver for whom the consumer is the employer of record;

(6) "Representative" means an uncompensated individual designated by the consumer to assist in managing the consumer's budget allowance and needed services; and

(7) "Service advisor" means the person who provides technical assistance to a consumer in meeting responsibilities under Sections 1 to 3 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Health Services shall establish the Kentucky Independence Plus through Consumer-Directed Services Program that shall provide an option within each of the home and community-based services waivers. The option within each of the waiver programs shall be based on the principles of consumer choice and control and that shall be implemented upon federal approval, if required. The program shall allow enrolled persons to choose their providers of services and to direct the delivery of services to meet their long-term care needs.

(2) The cabinet shall establish interagency cooperative agreements with any state agency as needed to implement and administer the program.

(3) A person who is enrolled in a Medicaid home and community-based waiver program may choose to participate in the consumer-directed care program.

(4) A consumer who is enrolled in the program shall be given a monthly budget allowance based on the results of his or her assessed functional needs and the financial resources of the program. A consumer shall receive the budget allowance directly from a cabinet-approved fiscal intermediary. The cabinet shall develop purchasing guidelines to assist each consumer in using the budget allowance to purchase needed, cost-effective services.

(5) A consumer shall use the budget allowance to pay for nonresidential and nonmedical home and community-based services that meet the consumer's long-term care needs and that constitute a cost-effective use of funds.

(6) A consumer shall be allowed to choose providers of services, including but not limited to when and how the services are

provided. A provider may include a person otherwise known to the consumer, unless prohibited by federal law.

(7) If the consumer is the employer of record, the consumer's roles and responsibilities shall include but not be limited to the following:

(a) Developing a job description;

(b) Selecting caregivers and submitting information for any required background screening;

(c) Communicating needs, preferences, and expectations about services being purchased;

(d) Providing the fiscal intermediary with all information necessary for provider payments and tax requirements; and

(e) Ending the employment of an unsatisfactory caregiver.

(8) If a consumer is not the employer of record, the consumer's roles and responsibilities shall include but not be limited to the following:

(a) Communicating needs, preferences, and expectations about services being purchased;

(b) Ending the services of an unsatisfactory provider; and

(c) Providing the fiscal agent with all information necessary for provider payments and tax requirements.

(9) The cabinet's roles and responsibilities shall include but not be limited to the following:

(a) Assessing each consumer's functional needs, helping with the service plan, and providing ongoing assistance with the service plan;

(b) Offering the services of service advisors who shall provide training, technical assistance, and support to the consumer as prescribed through an administrative regulation promulgated by the cabinet in accordance with KRS Chapter 13A;

(c) Completing the background screening for providers;

(d) Approving fiscal intermediaries; and

(e) Establishing the minimum qualifications for all caregivers and providers and being the final arbiter of the fitness of any individual to be a caregiver or provider.

(10) The fiscal intermediary's roles and responsibilities shall include but not be limited to the following:

(a) Providing recordkeeping services, including but not limited to maintaining financial records as required through administrative regulation promulgated in accordance with KRS Chapter 13A by the Cabinet for Health Services; and

(b) Retaining the consumer-directed care funds, processing employment and tax information, if any, reviewing records to ensure correctness, writing paychecks to providers, and delivering paychecks to the consumer for distribution.

(11) (a) Each person who renders care under this section shall comply on an annual basis with any required background screening. A person shall be excluded from employment upon failure to meet the background screening requirements unless otherwise exempted through an administrative regulation promulgated by the cabinet in accordance with KRS Chapter 13A.

(b) The service advisor shall, as appropriate, complete background screening as required by this section.

(12) For purposes of this section, a person who has undergone screening, is qualified for employment under this section, and has not been unemployed for more than one hundred eighty (180) days following the screening shall not be required to be rescreened. Such person must attest under penalty of perjury to not having been convicted of a disqualifying offense since completing the screening.

(13) To implement this section:

(a) The cabinet shall be authorized to promulgate necessary administrative regulations in accordance with KRS Chapter 13A; and

(b) The cabinet shall take all necessary action to ensure state compliance with federal regulations. The cabinet shall apply for any necessary federal waivers or waiver amendments to implement the program within three (3) months following the effective date of this Act pending availability of funding.

(14) The cabinet shall review and assess the implementation of the consumer-directed care program. By January 15 of each year, the cabinet shall submit a written report to the General Assembly that includes the review of the program and recommendations for improvements to the program.

SECTION 3. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provision of law to the contrary, the provisions of KRS Chapter 342 shall not apply to the provision of any service under Section 2 of this Act between the provider and the state or any state agency or political subdivision, the provider and the consumer, or as arranged by the provider and any fiscal intermediary, representative, or service advisor.

Section 4. Sections 1 to 3 of this Act shall be known as the Kentucky Independence Plus through Consumer-Directed

Services Program Act of 2004.

The Committee Substitute to **HB 116** is as follows:

HB 116, AN ACT relating to the Kentucky Independence Plus through Consumer-Directed Services Program Act of 2004.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 205.510 TO 205.645 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act, unless the context otherwise requires:

(1) "Budget allowance" means the amount of money made available each month to a consumer to purchase covered long-term care services. The amount of money shall not exceed the amount that would have been allocated in the traditional Medicaid program for nonresidential and nonmedical services for the consumer;

(2) "Consumer" means a person who has chosen to participate in the program, has met the enrollment requirements, and has received an approved budget allowance;

(3) "Covered long-term care services" means those long-term care services that are eligible for reimbursement under the program and that are approved for the consumer following a functional needs assessment;

(4) "Fiscal intermediary" means an entity approved by the cabinet that helps the consumer manage his or her budget allowance, retains the funds, processes any employment and tax information, reviews records to ensure correctness, writes paychecks to providers, and delivers paychecks or electronically transfers funds to the consumer for distribution to providers and caregivers;

(5) "Provider" means:

(a) A person or agency licensed or otherwise permitted to render services eligible for reimbursement under this program for whom the consumer is not the employer of record; or

(b) A consumer-employed caregiver for whom the consumer is the employer of record;

(6) "Representative" means an uncompensated individual designated by the consumer to assist in managing the consumer's budget allowance and needed services; and

(7) "Service advisor" means the person who provides technical assistance to a consumer in meeting responsibilities under Sections 1 to 3 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Health Services shall establish the Kentucky Independence Plus through Consumer-Directed Services Program that shall provide an option within each of the home and community-based services waivers. The option within each of the waiver programs shall be based on the principles of consumer choice and control and that shall be implemented upon federal approval, if required. The program shall allow enrolled persons to choose their providers of services and to direct the delivery of services to meet their long-term care needs.

(2) The cabinet shall establish interagency cooperative agreements with any state agency as needed to implement and administer the program.

(3) A person who is enrolled in a Medicaid home and community-based waiver program may choose to participate in the consumer-directed care program.

(4) A consumer who is enrolled in the program shall be allocated a monthly budget allowance based on the results of his or her assessed functional needs and the financial resources of the program. The budget allowance shall be disbursed directly from a cabinet-approved fiscal intermediary on behalf of the consumer. The cabinet shall develop purchasing guidelines to assist each consumer in using the budget allowance to purchase needed, cost-effective services.

(5) A consumer shall use the budget allowance to pay for nonresidential and nonmedical home and community-based services that meet the consumer's long-term care needs and that constitute a cost-effective use of funds.

(6) A consumer shall be allowed to choose providers of services, including but not limited to when and how the services are provided. A provider may include a person otherwise known to the consumer, unless prohibited by federal law.

(7) If the consumer is the employer of record, the consumer's roles and responsibilities shall include but not be limited to the following:

(a) Developing a job description;

(b) Selecting caregivers and submitting information for any required background screening;

(c) Communicating needs, preferences, and expectations about services being purchased;

(d) Providing the fiscal intermediary with all information necessary for provider payments and tax requirements; and

(e) Ending the employment of an unsatisfactory caregiver.

(8) If a consumer is not the employer of record, the consumer's roles and responsibilities shall include but not be limited to

the following:

(a) Communicating needs, preferences, and expectations about services being purchased;

(b) Ending the services of an unsatisfactory provider; and

(c) Providing the fiscal agent with all information necessary for provider payments and tax requirements.

(9) The roles and responsibilities of the cabinet and its agents shall include but not be limited to the following:

(a) Assessing each consumer's functional needs, helping with the service plan, and providing ongoing assistance with the service plan;

(b) Offering the services of service advisors who shall provide training, technical assistance, and support to the consumer as prescribed through an administrative regulation promulgated by the cabinet in accordance with KRS Chapter 13A;

(c) Approving fiscal intermediaries; and

(d) Establishing the minimum qualifications for all caregivers and providers and being the final arbiter of the fitness of any individual to be a caregiver or provider.

(10) The fiscal intermediary's roles and responsibilities shall include but not be limited to the following:

(a) Providing recordkeeping services, including but not limited to maintaining financial records as required through administrative regulation promulgated in accordance with KRS Chapter 13A by the Cabinet for Health Services; and

(b) Retaining the consumer-directed care funds, processing employment and tax information, if any, reviewing records to ensure correctness, writing paychecks to providers, and delivering paychecks.

(11) (a) Each person who renders care under this section shall comply on an annual basis with any required background screening. A person shall be excluded from employment upon failure to meet the background screening requirements unless otherwise exempted through an administrative regulation promulgated by the cabinet in accordance with KRS Chapter 13A.

(b) The service advisor shall, as appropriate, complete background screening as required by this section.

(12) For purposes of this section, a person who has undergone screening, is qualified for employment under this section, and has not been unemployed for more than one hundred eighty (180) days following the screening shall not be required to be rescreened. Such person must attest under penalty of perjury to not having been convicted of a disqualifying offense since completing the screening.

(13) To implement this section:

(a) The cabinet shall be authorized to promulgate necessary administrative regulations in accordance with KRS Chapter 13A; and

(b) The cabinet shall take all necessary action to ensure state compliance with federal regulations. The cabinet shall apply for any necessary federal waivers or waiver amendments to implement the program within three (3) months following the effective date of this Act pending availability of funding.

(14) The cabinet shall review and assess the implementation of the consumer-directed care program. By January 15 of each year, the cabinet shall submit a written report to the General Assembly that includes the review of the program and recommendations for improvements to the program.

SECTION 3. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provision of law to the contrary, the provisions of KRS Chapter 342 shall not apply to the provision of any service under Section 2 of this Act between the provider and the state or any state agency or political subdivision, the provider and the consumer, or as arranged by the provider and any fiscal intermediary, representative, or service advisor.

Section 4. Sections 1 to 3 of this Act shall be known as the Kentucky Independence Plus through Consumer-Directed Services Program Act of 2004.

HB 149, AN ACT relating to Hepatitis B vaccinations for postsecondary students.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) State universities shall require all persons enrolling as full-time students to present evidence of vaccination against Hepatitis B prior to enrollment or within nine (9) months of enrollment as a condition of continued attendance at the institution.

(2) State universities shall provide all persons enrolling as full-time students with educational information concerning Hepatitis B.

(3) State universities shall not be required to provide or pay for vaccinations against Hepatitis B for persons enrolling as full-time students.

(4) State universities shall exempt a person enrolling as a full-time student from presenting evidence of vaccination against Hepatitis B if:

(a) The student presents a written statement from a licensed physician certifying that immunization by Hepatitis B vaccine is medically contraindicated for that student; or

(b) The student or the student's parent or guardian present a signed, written statement that such immunization conflicts with the student's religious tenets.

HB 159, AN ACT relating to inspections of long-term care facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216.530 is amended to read as follows:

(1) All inspections of long-term care facilities performed by the cabinet shall be unannounced. All inspections of long-term care facilities shall be conducted in accordance with the rules and regulations promulgated by the cabinet in accordance with KRS Chapter 13A setting forth the parameters of such inspections. Except for complaint investigations, inspections shall be performed no later than seven (7) to fifteen (15) months after the previous inspection.

(2) A person who intentionally announces or otherwise informs a long-term care facility of an inspection to be performed by the cabinet on that facility shall be guilty of a Class D felony and subject to a civil penalty in an amount not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000) for each separate offense. All fines collected by the cabinet pursuant to this section shall be deposited in a long-term care fund that shall be created to receive funds under this section.

HB 160, AN ACT relating to social work.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 335.010 is amended to read as follows:

(1) It is the purpose and policy of the Commonwealth of Kentucky to protect the public from being misled by incompetent and unauthorized persons, and from unprofessional conduct on the part of qualified social workers by providing regulatory authority over persons who hold themselves out to the public as social workers.

(2) The purpose of KRS 335.010 to 335.160 and KRS 335.990 is to promote high standards of professional performance for those engaged in the profession of social work by regulating the title, and by setting standards of qualification, training, and experience for those who seek to engage in the practice of social work.

(3) Nothing contained in KRS 335.010 to 335.160 and KRS 335.990 shall be applicable to employees of the State Department of Education or local boards of education who meet the certification requirements in the area of social work as established, or which may be established, by the Kentucky Board of Education. Nor shall anything in KRS 335.010 to 335.160 and KRS 335.990 be construed to apply to, limit, or restrict the regulation of the title, setting of standards, qualifications, training, or experience of those who seek to engage in the practice of social work and who have been, or will be, certified by the Kentucky Board of Education for the position for which they have been employed.

(4) Nothing contained in KRS 335.010 to 335.160 and KRS 335.990 shall require persons employed by the Commonwealth of Kentucky, the director or administrative head of a social service agency or division of a city, county or urban-county government, or applicants for such employment to be licensed.

(5) Nothing contained in KRS 335.010 to 335.160 and KRS 335.990 shall require persons employed by church-related or church-operated or affiliated agencies, children's homes, neighborhood centers, or other philanthropic and nonprofit field service offices to be licensed. The provisions of KRS 335.010 to 335.160 and KRS 335.990 shall not be construed to apply to, limit, or restrict the regulation of the title, setting of standards, qualifications, training, and experience of those engaged as employees of such entities in the practice of social work or applied social counseling.

(6) Nothing contained in KRS 335.010 to 335.160 and KRS 335.990 shall limit the activities of a graduate student or intern performing a practicum as part of his or her course of study at a board-approved educational institution. The practicum shall be recognized by transcript as a part of the student's or intern's supervised course of study.

Section 2. KRS 335.080 is amended to read as follows:

(1) The board shall issue a license as "certified social worker" to an applicant who meets the following requirements:

(a) Is at least eighteen (18) years of age;

(b) Is a person of good moral character;

(c) Has received a master's degree or doctorate degree in social work from an educational institution approved by the board;

(d) Has paid to the board an examination fee established by the board by promulgation of an administrative regulation;

(e) Has passed an examination prepared by the board;

(f) Has not within the preceding ***three (3)***[~~six (6)~~] months failed to pass an examination given by the board;

(g) Has paid an initial license fee established by the board by promulgation of an administrative regulation; and

(h) Has complied with KRS 214.615(1).

(2) The license shall be displayed in the licensee's principal place of practice, and shall entitle the licensee to hold himself forth to the public as providing services as authorized by KRS 335.010 to 335.160 and 335.990.

(3) A certified social worker may engage in the practice of clinical social work by contracting, in writing, with a licensed clinical social worker who shall assume responsibility for and supervise the certified social worker's practice as directed by the board by promulgation of administrative regulations. The certified social worker shall, for purposes of this section, be an employee of an institution or organization in which the certified social worker has no direct or indirect interest other than employment. No certified social worker shall enter into a practice of clinical social work until this contract has been approved by the board, and shall cease the practice of clinical social work immediately upon the termination of the contract. At the termination of the contract, the certified social worker shall apply for licensure as a licensed clinical social worker or request an extension of the contract from the board.

Section 3. KRS 335.090 is amended to read as follows:

(1) The board shall issue a license as "licensed social worker" to an applicant who meets the following requirements:

(a) Is at least eighteen (18) years of age;

(b) Is a person of good moral character;

(c) 1. Has received a baccalaureate degree in a social work or social welfare program accredited by the Council on Social Work Education; or

2. Has received a baccalaureate degree and has completed courses equivalent to a social work or social welfare program as determined by the board;

(d) Has paid to the board an examination fee established by the board by promulgation of an administrative regulation;

(e) Has passed an examination prepared by the board;

(f) Has not within the preceding ***three (3)***[~~six (6)~~] months failed to pass an examination given by the board;

(g) Has paid an initial license fee established by the board by promulgation of an administrative regulation; and

(h) Has complied with KRS 214.615(1).

(2) The license shall be displayed in the licensee's principal place of practice, and shall entitle the licensee to hold himself forth to the public as providing services as authorized by KRS 335.010 to 335.160 and 335.990.

Section 4. KRS 335.100 is amended to read as follows:

(1) The board shall issue a license as "licensed clinical social worker" to an applicant who meets the following requirements:

(a) Has received a master's degree or doctoral degree in social work from an educational institution approved by the board;

(b) Has had a minimum of two (2) years of full time post-master's experience, consisting of at least thirty (30) hours per week, or three (3) years of part time, consisting of at least twenty (20) hours per week, post-master's degree experience acceptable to the board in the use of specialty methods and measures to be employed in clinical social work practice, the experience having been acquired under appropriate supervision as established by the board by promulgation of an administrative regulation;

(c) Has paid to the board an examination fee established by the board by promulgation of an administrative regulation;

(d) Has passed an examination prepared by the board for this purpose;

(e) Has not within the preceding ***three (3)***[~~six (6)~~] months failed to pass an examination given by the board;

(f) Has paid an initial license fee established by the board by promulgation of an administrative regulation; and

(g) Has complied with KRS 214.615(1).

(2) The license shall be displayed in the licensee's principal place of practice, and shall entitle the licensee to hold himself forth to the public as providing services as authorized by KRS 335.010 to 335.160 and KRS 335.990.

(3) A licensed clinical social worker may contract with a certified social worker in the practice of clinical social work as provided in KRS 335.080(3). The licensed clinical social worker shall assume responsibility for and supervise the certified social worker's practice as directed by the board by promulgation of administrative regulations.

The Committee Substitute to **HB 160** is as follows:

HB 160, AN ACT relating to social work.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 335.010 is amended to read as follows:

(1) It is the purpose and policy of the Commonwealth of Kentucky to protect the public from being misled by incompetent and unauthorized persons, and from unprofessional conduct on the part of qualified social workers by providing regulatory authority over persons who hold themselves out to the public as social workers.

(2) The purpose of KRS 335.010 to 335.160 and KRS 335.990 is to promote high standards of professional performance for those engaged in the profession of social work by regulating the title, and by setting standards of qualification, training, and experience for those who seek to engage in the practice of social work.

(3) Nothing contained in KRS 335.010 to 335.160 and KRS 335.990 shall be applicable to employees of the State Department of Education or local boards of education who meet the certification requirements in the area of social work as established, or which may be established, by the Kentucky Board of Education. Nor shall anything in KRS 335.010 to 335.160 and KRS 335.990 be construed to apply to, limit, or restrict the regulation of the title, setting of standards, qualifications, training, or experience of those who seek to engage in the practice of social work and who have been, or will be, certified by the Kentucky Board of Education for the position for which they have been employed.

(4) Nothing contained in KRS 335.010 to 335.160 and KRS 335.990 shall require persons employed by the Commonwealth of Kentucky, the director or administrative head of a social service agency or division of a city, county or urban-county government, or applicants for such employment to be licensed.

(5) Nothing contained in KRS 335.010 to 335.160 and KRS 335.990 shall require ***licensure of*** persons ***who volunteer or are*** employed by***:***

(a) Church-related***,***[~~ or~~] church-operated***,*** or ***church-***affiliated agencies, children's homes, ***or*** neighborhood centers***;***[~~,~~] or

(b) Other philanthropic and nonprofit ***entities***[~~field service offices to be licensed~~]. The provisions of KRS 335.010 to 335.160 and KRS 335.990 shall not be construed to[~~ apply to,~~] limit[~~,~~] or restrict the ***ability of church-related or church-operated or other philanthropic and nonprofit entities to establish***[~~regulation of the title, setting of~~] standards, qualifications, ***or*** training ***or***[~~, and~~] experience ***requirements for their***[~~of those engaged as~~] employees ***or volunteers***[~~of such entities in the practice of social work or applied social counseling~~].

(6) Nothing contained in KRS 335.010 to 335.160 and KRS 335.990 shall limit the activities of a graduate student or intern performing a practicum as part of his or her course of study at a board-approved educational institution. The practicum shall be recognized by transcript as a part of the student's or intern's supervised course of study.

Section 2. KRS 335.080 is amended to read as follows:

(1) The board shall issue a license as "certified social worker" to an applicant who meets the following requirements:

(a) Is at least eighteen (18) years of age;

(b) Is a person of good moral character;

(c) Has received a master's degree or doctorate degree in social work from an educational institution approved by the board;

(d) Has paid to the board an examination fee established by the board by promulgation of an administrative regulation;

(e) Has passed an examination prepared by the board;

(f) Has not within the preceding ***three (3)***[~~six (6)~~] months failed to pass an examination given by the board;

(g) Has paid an initial license fee established by the board by promulgation of an administrative regulation; and

(h) Has complied with KRS 214.615(1).

(2) The license shall be displayed in the licensee's principal place of practice, and shall entitle the licensee to hold himself forth to the public as providing services as authorized by KRS 335.010 to 335.160 and 335.990.

(3) A certified social worker may engage in the practice of clinical social work by contracting, in writing, with a licensed clinical social worker who shall assume responsibility for and supervise the certified social worker's practice as directed by the board by promulgation of administrative regulations. The certified social worker shall, for purposes of this section, be an employee of an institution or organization in which the certified social worker has no direct or indirect interest other than employment. No certified social worker shall enter into a practice of clinical social work until this contract has been approved by the board, and shall cease the practice of clinical social work immediately upon the termination of the contract. At the termination of the contract, the certified social worker shall apply for licensure as a licensed clinical social worker or request an extension of the contract from the board.

Section 3. KRS 335.090 is amended to read as follows:

(1) The board shall issue a license as "licensed social worker" to an applicant who meets the following requirements:

(a) Is at least eighteen (18) years of age;

(b) Is a person of good moral character;

(c) 1. Has received a baccalaureate degree in a social work or social welfare program accredited by the Council on Social Work Education; or

2. Has received a baccalaureate degree and has completed courses equivalent to a social work or social welfare

program as determined by the board;

(d) Has paid to the board an examination fee established by the board by promulgation of an administrative regulation;

(e) Has passed an examination prepared by the board;

(f) Has not within the preceding ***three (3)***[~~six (6)~~] months failed to pass an examination given by the board;

(g) Has paid an initial license fee established by the board by promulgation of an administrative regulation; and

(h) Has complied with KRS 214.615(1).

(2) The license shall be displayed in the licensee's principal place of practice, and shall entitle the licensee to hold himself forth to the public as providing services as authorized by KRS 335.010 to 335.160 and 335.990.

Section 4. KRS 335.100 is amended to read as follows:

(1) The board shall issue a license as "licensed clinical social worker" to an applicant who meets the following requirements:

(a) Has received a master's degree or doctoral degree in social work from an educational institution approved by the board;

(b) Has had a minimum of two (2) years of full time post-master's experience, consisting of at least thirty (30) hours per week, or three (3) years of part time, consisting of at least twenty (20) hours per week, post-master's degree experience acceptable to the board in the use of specialty methods and measures to be employed in clinical social work practice, the experience having been acquired under appropriate supervision as established by the board by promulgation of an administrative regulation;

(c) Has paid to the board an examination fee established by the board by promulgation of an administrative regulation;

(d) Has passed an examination prepared by the board for this purpose;

(e) Has not within the preceding ***three (3)***[~~six (6)~~] months failed to pass an examination given by the board;

(f) Has paid an initial license fee established by the board by promulgation of an administrative regulation; and

(g) Has complied with KRS 214.615(1).

(2) The license shall be displayed in the licensee's principal place of practice, and shall entitle the licensee to hold himself forth to the public as providing services as authorized by KRS 335.010 to 335.160 and KRS 335.990.

(3) A licensed clinical social worker may contract with a certified social worker in the practice of clinical social work as provided in KRS 335.080(3). The licensed clinical social worker shall assume responsibility for and supervise the certified social worker's practice as directed by the board by promulgation of administrative regulations.

HB 242, AN ACT relating to public health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 202A.011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Authorized staff physician" means a physician who is a bona fide member of the hospital's medical staff;

(2) "Danger" or "threat of danger to self, family, or others" means substantial physical harm or threat of substantial physical harm upon self, family, or others, including actions which deprive self, family, or others of the basic means of survival including provision for reasonable shelter, food, or clothing;

(3) "Cabinet" means the Kentucky Cabinet for Health Services;

(4) "Psychiatric facility" means a crisis stabilization unit or any facility licensed by the cabinet and which provides inpatient, outpatient, psychosocial rehabilitation, emergency, and consultation and education services for the diagnosis and treatment of persons who have a mental illness;

(5) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary for the purpose and function of providing inpatient evaluation, care, and treatment for mentally ill or mentally retarded persons who have been charged with or convicted of a felony;

(6) "Hospital" means:

(a) A state mental hospital or institution or other licensed public or private hospital, institution, health-care facility, or part thereof, ***that has:***

1. ***Been*** approved by the Kentucky Cabinet for Health Services as equipped to provide full-time residential care and treatment for mentally ill or mentally retarded persons; ***or***

2. ***A psychiatrist on its medical staff;***

(b) A hospital, institution, or health-care facility of the government of the United States equipped to provide residential care and treatment for mentally ill or mentally retarded persons;

(7) "Judge" means any judge or justice of the Court of Justice or a trial commissioner of the District Court acting under

authority of SCR 5.030;

(8) "Least restrictive alternative mode of treatment" means that treatment which will give a mentally ill individual a realistic opportunity to improve the individual's level of functioning, consistent with accepted professional practice in the least confining setting available;

(9) "Mentally ill person" means a person with substantially impaired capacity to use self-control, judgment, or discretion in the conduct of the person's affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological, or social factors;

(10) "Patient" means a person under observation, care, or treatment in a hospital pursuant to the provisions of this chapter;

(11) "Petitioner" means a person who institutes a proceeding under this chapter;

(12) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of official duties, who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A psychologist with the health service provider designation, a psychological practitioner, a certified psychologist, or a psychological associate, licensed under the provisions of KRS Chapter 319;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse, with a bachelor's degree in nursing from an accredited institution, who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community mental health and mental retardation program;

(e) A licensed clinical social worker licensed under the provisions of KRS 335.100, or a certified social worker licensed under the provisions of KRS 335.080 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a private agency or company engaged in the provision of mental health services or a regional community mental health and mental retardation program;

(f) A marriage and family therapist licensed under the provisions of KRS 335.300 to 335.399 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional community mental health and mental retardation program; or

(g) A professional counselor credentialed under the provisions of KRS Chapter 335.500 to 335.599 with three (3) years of inpatient or outpatient clinical experience in psychiatric mental health practice and currently employed by a hospital or forensic facility licensed by the Commonwealth, a psychiatric unit of a general hospital, a private agency or company engaged in providing mental health services, or a regional community mental health and mental retardation program;

(13) "Residence" means legal residence as determined by applicable principles governing conflicts of law;

(14) "Respondent" means a person alleged in a hearing under this chapter to be a mentally ill or mentally retarded person;

(15) "Secretary" means the secretary of the Cabinet for Health Services.

The Committee Substitute to **HB 242** is as follows:

HB 242, AN ACT relating to public health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 202A.031 is amended to read as follows:

(1) An authorized staff physician may order the admission of any person who is present at, or is presented at, a hospital. ***For the purposes of this subsection only, a hospital may include any licensed medical facility that has a licensed psychiatrist on staff.*** Within twenty-four (24) hours (excluding weekends and holidays) of the admission under this section, the authorized staff physician ordering the admission of the individual shall certify in the record of the individual that in his opinion the individual should be involuntarily hospitalized.

(2) Any individual who has been admitted to a hospital under subsection (1) of this section shall be released from the hospital within seventy-two (72) hours (excluding weekends and holidays) unless further detained under the applicable provisions

of this chapter.

The Committee on Elections, Constitutional Amendments, and Intergovernmental Relations reported **HB 344**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 344, AN ACT relating to electioneering and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.235 is amended to read as follows:

(1) No person, other than the election officers, challengers, and a minor child in the company of a voter, shall be permitted within the voting room while the vote is being polled, except for the purpose of voting or except by authority of the election officers to keep order and enforce the law. At the voter's discretion, a minor child in the company of a voter may accompany the voter into a voting booth or other private area provided for casting a vote.

(2) No officer of election shall do any electioneering on election day.

(3) No person shall, on the day of any election as established in KRS 118.025, do any electioneering at the polling place or within a distance of ***one hundred (100)***[~~five hundred (500)~~] feet of a county clerk's office or any entrance to a building in which a voting machine is located if that entrance is unlocked and is used by voters on election day[~~, unless the fiscal court or legislative body of an urban-county government, on a countywide basis, specifically prohibits electioneering on the day of any election by ordinance for a distance greater than five hundred (500) feet from the polling place~~]. Electioneering shall include the displaying of signs, the distribution of campaign literature, cards, or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any candidate or question on the ballot in any manner, but shall not include exit polling. Nothing contained in this section shall prohibit electioneering conducted within a private residence or establishment other than that in which the polling place is located by persons having an ownership interest in such property.

(4) No voter shall be permitted to converse with others while in any room in which voting, including absentee voting, is conducted concerning their support or nonsupport of any candidate, party, or issue to be voted on, except as provided in KRS 117.255.

(5) Any precinct election officer, county clerk, deputy county clerk, or any law enforcement official may enforce the election laws and maintain law and order at the polls and within ***one hundred (100)***[~~five hundred (500)~~] feet of any entrance to the building in which the voting machine is located if that entrance is unlocked and is used by voters. Assistance may be requested of any law enforcement officer.

(6) Notwithstanding the provisions of subsection (1) of this section, the State Board of Elections may establish a program designed to instill in school children a respect for the democratic principles of voting by conducting in any county a mock election for school children in conjunction with any regular, primary, or special election. The State Board of Elections shall promulgate administrative regulations regarding the mock elections to insure that the regular voting process will not be impaired.

Section 2. Whereas a three-judge panel of the United States Court of Appeals for the Sixth Circuit, in the case of Anderson v. Spear, No. 02-5529 (January 16, 2004), has found the 500-foot restriction on electioneering unconstitutional, and an immediate change to the law is necessary to conduct free and equal elections as required by Section 6 of the Kentucky Constitution, ensure the full exercise of the secret ballot as required by Section 147 of the Kentucky Constitution, prevent voter intimidation and harassment, and prevent vote fraud throughout the Commonwealth for upcoming special, primary, and general elections, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Substitute to **HB 344** is as follows:

HB 344, AN ACT relating to electioneering and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.235 is amended to read as follows:

(1) No person, other than the election officers, challengers, and a minor child in the company of a voter, shall be permitted within the voting room while the vote is being polled, except for the purpose of voting or except by authority of the election officers to keep order and enforce the law. At the voter's discretion, a minor child in the company of a voter may accompany the voter into a voting booth or other private area provided for casting a vote.

(2) No officer of election shall do any electioneering on election day.

(3) No person shall, on the day of any election as established in KRS 118.025, do any electioneering at the polling place or within a distance of ***one hundred (100)***[~~five hundred (500)~~] feet of a county clerk's office or any entrance to a building in which a voting machine is located if that entrance is unlocked and is used by voters on election day[~~, unless the fiscal court~~

~~or legislative body of an urban-county government, on a countywide basis, specifically prohibits electioneering on the day of any election by ordinance for a distance greater than five hundred (500) feet from the polling place~~]. Electioneering shall include the displaying of signs, the distribution of campaign literature, cards, or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any candidate or question on the ballot in any manner, but shall not include exit polling. Nothing contained in this section shall prohibit electioneering conducted within a private residence or establishment other than that in which the polling place is located by persons having an ownership interest in such property.

(4) No voter shall be permitted to converse with others while in any room in which voting, including absentee voting, is conducted concerning their support or nonsupport of any candidate, party, or issue to be voted on, except as provided in KRS 117.255.

(5) Any precinct election officer, county clerk, deputy county clerk, or any law enforcement official may enforce the election laws and maintain law and order at the polls and within *one hundred (100)*[~~five hundred (500)~~] feet of any entrance to the building in which the voting machine is located if that entrance is unlocked and is used by voters. Assistance may be requested of any law enforcement officer.

(6) Notwithstanding the provisions of subsection (1) of this section, the State Board of Elections may establish a program designed to instill in school children a respect for the democratic principles of voting by conducting in any county a mock election for school children in conjunction with any regular, primary, or special election. The State Board of Elections shall promulgate administrative regulations regarding the mock elections to insure that the regular voting process will not be impaired.

Section 2. Effective June 30, 2005, the following KRS section is repealed:

117.235 Persons permitted in voting room -- Prohibited activities -- Exit polls permitted -- Maintenance of order -- Mock elections for school children.

Section 3. It is the intention of the General Assembly to have a 100-foot limit on electioneering in place during the pendency of any further appeal in the case described in Section 4 of this Act. The General Assembly believes that a 500-foot limit on electioneering is reasonable, appropriate, and constitutional.

Section 4. Whereas a three-judge panel of the United States Court of Appeals for the Sixth Circuit, in the case of Anderson v. Spear, No. 02-5529 (January 16, 2004), has found the 500-foot restriction on electioneering unconstitutional, and an immediate change to the law is necessary to conduct free and equal elections as required by Section 6 of the Kentucky Constitution, ensure the full exercise of the secret ballot as required by Section 147 of the Kentucky Constitution, prevent voter intimidation and harassment, and prevent vote fraud throughout the Commonwealth for upcoming special, primary, and general elections, an emergency is declared to exist, and Sections 1 and 3 of this Act take effect upon their passage and approval by the Governor or upon their otherwise becoming a law.

SECTION 5. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

(1) No person, other than the election officers, challengers, and a minor child in the company of a voter, shall be permitted within the voting room while the vote is being polled, except for the purpose of voting or except by authority of the election officers to keep order and enforce the law. At the voter's discretion, a minor child in the company of a voter may accompany the voter into a voting booth or other private area provided for casting a vote.

(2) No officer of election shall do any electioneering on election day.

(3) No person shall, on the day of any election as established in KRS 118.025, do any electioneering at the polling place or within a distance of five hundred (500) feet of a county clerk's office or any entrance to a building in which a voting machine is located if that entrance is unlocked and is used by voters on election day, unless the fiscal court or legislative body of an urban-county government, on a countywide basis, specifically prohibits electioneering on the day of any election by ordinance for a distance greater than five hundred (500) feet from the polling place. Electioneering shall include the displaying of signs, the distribution of campaign literature, cards, or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any candidate or question on the ballot in any manner, but shall not include exit polling. Nothing contained in this section shall prohibit electioneering conducted within a private residence or establishment other than that in which the polling place is located by persons having an ownership interest in such property.

(4) No voter shall be permitted to converse with others while in any room in which voting, including absentee voting, is conducted concerning their support or nonsupport of any candidate, party, or issue to be voted on, except as provided in KRS 117.255.

(5) Any precinct election officer, county clerk, deputy county clerk, or any law enforcement official may enforce the election laws and maintain law and order at the polls and within five hundred (500) feet of any entrance to the building in which the voting machine is located if that entrance is unlocked and is used by voters. Assistance may be requested of any law enforcement officer.

(6) Notwithstanding the provisions of subsection (1) of this section, the State Board of Elections may establish a program designed to instill in school children a respect for the democratic principles of voting by conducting in any county a mock election for school children in conjunction with any regular, primary, or special election. The State Board of

Elections shall promulgate administrative regulations regarding the mock elections to insure that the regular voting process will not be impaired.

Section 6. Section 5 of this Act shall be effective July 1, 2005.

The Committee on Agriculture and Small Business reported **HB 281, HB 283**, with Committee Substitute attached thereto, **HB 286**, with Committee Amendment attached thereto, **HB 287, HCR 26, HCR 27, HCR 35, HCR 36,** and **HCR 87** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 281, AN ACT relating to agricultural land use.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 262 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act:

(1) "Committee" means the Interagency Farmland Advisory Committee;

(2) "Secretary" means the secretary of the Finance and Administration Cabinet.

SECTION 2. A NEW SECTION OF KRS CHAPTER 262 IS CREATED TO READ AS FOLLOWS:

(1) The Interagency Farmland Advisory Committee is hereby created. The committee shall advise the Governor on state activities that may contribute to the conversion of farmland to nonfarmland uses. The members shall be appointed by the Governor and shall include one (1) representative for each of the following:

(a) Governor's Cabinet;

(b) Finance and Administration Cabinet;

(c) Revenue Cabinet;

(d) Cabinet for Economic Development;

(e) Transportation Cabinet;

(f) Natural Resources and Environmental Protection Cabinet;

(g) Kentucky Coal Council;

(h) Department of Agriculture;

(i) Department for Local Government;

(j) Department of Fish and Wildlife Resources;

(k) Environmental Quality Commission;

(l) Soil and Water Conservation Commission;

(m) The joint chairpersons of the Interim Joint Committee on Agriculture and Natural Resources or their designee;

(n) Dean, College of Agriculture, University of Kentucky;

(o) Director of Land Grant, Kentucky State University;

(p) Two (2) farmers who own and operate one hundred fifty (150) acres or less. Each farmer shall be selected from a separate list of three (3) persons recommended by the Community Farm Alliance. Each farmer shall serve a three (3) year term.

(q) Two (2) farmers who own and operate more than one hundred fifty (150) acres. Each farmer shall be selected from a separate list of three (3) persons recommended by the Kentucky Farm Bureau. Each farmer shall serve a three (3) year term.

(2) The chair and vice chair shall be elected by the committee members.

(3) A majority of the members of the committee constitutes a quorum for conducting business, and any action taken in the name of the committee requires an affirmative vote of a majority of the members present and voting.

(4) Members shall not receive compensation for serving on the committee, but shall be reimbursed for expenses incurred.

(5) The committee shall meet quarterly or at the call of the chair or the Governor.

SECTION 3. A NEW SECTION OF KRS CHAPTER 262 IS CREATED TO READ AS FOLLOWS:

(1) The Interagency Farmland Advisory Committee shall:

(a) Review proposed projects of all state agencies, including but not limited to those of boards and commissions that will convert farmland to nonfarm use and require the acquisition of fifty (50) or more acres of farmland;

(b) Prepare a committee report on all state-proposed projects and submit the report to the Governor and to the agency proposing the state project. The committee report shall:

1. Be submitted no later than thirty (30) days after receiving a state-proposed project report if a public hearing is not requested and no later than forty-five (45) days after receiving a state-proposed project *report if a public hearing is requested;*

2. Include a recommendation declining or accepting the state-proposed project and evidence supporting the decision;

3. Include alternatives for all state-proposed projects that are declined and explain the actions to be taken to implement them.

(c) Prepare a letter of review stating the recommendations of the committee and submit the letter to the secretary within five (5) days of submitting the committee report.

(2) The Interagency Farmland Advisory Committee shall provide notice of a state-proposed project by publishing the notice in a newspaper with the greatest county-wide circulation in the affected county and in three (3) newspapers with the greatest state-wide circulation. The notice shall:

(a) Be published within five (5) days after receiving the state-proposed project report;

(b) Solicit comments on the state-proposed project;

(c) State that a public hearing will be held upon a written request received within fifteen (15) days of the first published notice; and

(d) State the address for submitting a request for public hearing.

(3) The public hearing, if requested, shall be held within fifteen (15) days after receiving a written request for public hearing.

SECTION 4. A NEW SECTION OF KRS CHAPTER 262 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other law, all state agencies, including but not limited to boards and commissions shall submit a report on all state-proposed projects requiring the acquisition of fifty (50) or more acres of farmland to the committee for the purpose of review and recommendations.

(2) All state agencies shall submit state-proposed project reports sixty (60) days prior to taking action to acquire farmland. A state-proposed project report shall:

(a) Explain the project;

(b) Contain an agricultural impact assessment;

(c) Describe the location of land that is intended to be acquired;

(d) Explain reasons for needing the land.

(3) The secretary shall not fund any state-proposed project prior to receiving a letter of review from the committee.

(4) A state agency shall not expend funds from any state or federal source before the secretary receives a letter of review from the committee.

HB 283, AN ACT relating to eggs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 260.630 is amended to read as follows:

(1) All wholesale egg packs consisting of cases or portions of cases shall bear a legible label designating contents; quality; quantity; date of packing or an expiration date of no more than *forty-five (45)*~~[thirty (30)]~~ days from the date of packing; dealer's name, address, and plant number; and size and grade of eggs. The letters on the label shall not be less than one-fourth (1/4) inch in height.

(2) Graded eggs shall be offered for sale in cartons or other consumer packs and shall be plainly and legibly marked as to grade; quality; size; quantity; dealer's name, address, and plant number; and date of packing or an expiration date of no more than *forty-five (45)*~~[thirty (30)]~~ days from the date of packing. The marking letters shall not be less than one-fourth (1/4) inch in height.

(3) Eggs offered for sale that are not in a carton shall be in a container that:

(a) Contains all information required by this section; and

(b) Displays the information in legible letters at least one-fourth (1/4) inch high on a sign attached to the container.

(4) If eggs are packed in retail "breakaway" cartons that can be divided by the consumer or retailer into smaller units for the purpose of selling lesser amounts of eggs, each half or portion of the container shall contain full information as required by subsection (2) of this section.

(5) Egg cartons cannot be reused.

(6) If a producer who sells directly to consumers only is using stock cartons, the cartons shall be labeled "ungraded" followed by "produced by:" (producer's name and address) and "sold directly to the consumer." This information may be handprinted on the carton if it is legible and appears on the top panel of the egg carton.

The Committee Substitute to **HB 283** is as follows:

HB 283, AN ACT relating to eggs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 260.630 is amended to read as follows:

(1) All wholesale egg packs consisting of cases or portions of cases shall bear a legible label designating contents; quality; quantity; date of packing *and*~~[or an]~~ expiration date~~[of no more than thirty (30) days from the date of packing]~~; dealer's name, address, and plant number; and size and grade of eggs. *Expiration dating shall include qualifying prefixes such as "EXP," "Expiration date," "Sell by," "Not to be sold after date on end of carton," "Purchase by," "Last sale date on end of carton," or other similar language denoting stock rotation. The dates associated with these prefixes shall be calculated from the date the eggs are originally packed into the container and may not exceed thirty (30) days including the day of pack. Qualifying prefixes such as "Use before," "Use by," "Best before," "Best by," or other similar language generally indicate the maximum time frame for expected quality. The dates associated with these prefixes shall be calculated from the date the eggs are packed into the container and may not exceed forty-five (45) days including the day of pack.* The letters on the label shall not be less than one-fourth (1/4) inch in height.

(2) Graded eggs shall be offered for sale in cartons or other consumer packs and shall be plainly and legibly marked as to grade; quality; size; quantity; dealer's name, address, and plant number; and date of packing *and*~~[or an]~~ expiration date~~[of no more than thirty (30) days from the date of packing]~~. *Expiration dating shall include qualifying prefixes such as "EXP," "Expiration date," "Sell by," "Not to be sold after date on end of carton," "Purchase by," "Last sale date on end of carton," or other similar language denoting stock rotation. The dates associated with these prefixes shall be calculated from the date the eggs are originally packed into the container and may not exceed thirty (30) days including the day of pack. Qualifying prefixes such as "Use before," "Use by," "Best before," "Best by," or other similar language generally indicate the maximum time frame for expected quality. The dates associated with these prefixes shall be calculated from the date the eggs are packed into the container and may not exceed forty-five (45) days including the day of pack.* The marking letters shall not be less than one-fourth (1/4) inch in height.

(3) Eggs offered for sale that are not in a carton shall be in a container that:

(a) Contains all information required by this section; and

(b) Displays the information in legible letters at least one-fourth (1/4) inch high on a sign attached to the container.

(4) If eggs are packed in retail "breakaway" cartons that can be divided by the consumer or retailer into smaller units for the purpose of selling lesser amounts of eggs, each half or portion of the container shall contain full information as required by subsection (2) of this section.

(5) Egg cartons cannot be reused.

(6) If a producer who sells directly to consumers only is using stock cartons, the cartons shall be labeled "ungraded" followed by "produced by:" (producer's name and address) and "sold directly to the consumer." This information may be handprinted on the carton if it is legible and appears on the top panel of the egg carton.

HB 286, AN ACT relating to bovine animal assessments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 247.650 is amended to read as follows:

(1) With respect to any referendum conducted under the provisions of KRS 247.610 to 247.685, the Commissioner of Agriculture shall, before calling and announcing the referendum, fix, determine*,* and publicly announce at least thirty (30) days before the date determined for the referendum, the date, hours*,* and polling places for voting in the referendum, the effective date of the assessment, if adopted, the amount and basis of the assessment proposed to be collected, the means by which *the*~~[such]~~ assessment shall be collected if authorized by *the*~~[said]~~ producers, and the general purposes to which *the*~~[said]~~ amount~~[so]~~ collected shall be applied. No assessment levied under the provisions of any referendum shall exceed *one dollar ($1.00)*~~[twenty five cents ($0.25)]~~ on each bovine animal marketed in the state by any producer included in the group to which *the*~~[such]~~ referendum was submitted or by any person subsequently becoming a new producer in the area in which *the*~~[such]~~ referendum was held.

(2) The first referendum held under the provisions of KRS 247.610 to 247.685 shall specify that the assessment, if approved, levied under that referendum shall be ten cents ($0.10) on each bovine animal.

(3) No assessment shall be made on any bovine animal marketed in the state which sells for ten dollars ($10) or less.

Section 2. KRS 247.652 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 247.610 to 247.685, in accordance with the Federal Beef Promotion and Research Act of 1985, each Kentucky producer of a bovine animal shall receive a credit of up to fifty cents ($0.50) on each bovine animal on which a one dollar ($1) assessment was made under the terms of the federal act. Each~~[such]~~ fifty cent ($0.50) credit received by the producer shall be retained by the association certified under KRS 247.610 to 247.685 and shall be used by the association for the purposes provided in KRS 247.610 to 247.685.

(2) As long as the Kentucky producer of bovine animals receives the fifty cents ($0.50) per head credit in accordance with subsection (1) of this section, the assessment provided for in KRS 247.650 shall not be effective.

(3) In the event the one dollar ($1) assessment provided by the federal act is terminated or suspended, the assessment on each Kentucky producer of a bovine animal shall continue and shall not exceed *one dollar*[~~twenty-five cents ($0.25)~~] for the purposes of KRS 247.610 to 247.685.

The Committee Amendment No. 1 to **HB 286** is as follows:

HB 286, On page 1, line 11, by deleting "*($1.00)*", and by inserting in lieu thereof, "*($1)*"; and
On page 2, line 8, after "*one dollar*", by inserting "*($1)*".

HB 287, AN ACT relating to porcine animal assessment referendums.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 15 of this Act, unless the context otherwise requires:

(1) "Association" means any commission, council, board, or other body;

(2) "Producer" means every person who produces and markets porcine animals; and

(3) "New producer" means a producer who was not engaged in the business of producing porcine animals at the time a referendum was conducted in accordance with the provisions of Sections 1 to 15 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

No association meeting or activity undertaken to carry out the provisions of Sections 1 to 15 of this Act and intended to benefit all of the producers, handlers, and processors of porcine animals shall be deemed or considered illegal or in restraint of trade.

SECTION 3. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) Any existing association which is fairly representative of the porcine animal producers of Kentucky may at any time after the enactment of Sections 1 to 15 of this Act make application to the State Board of Agriculture on forms prescribed by the board for certification and approval for the purpose of conducting a referendum among the producers of porcine animals upon the question of levying an assessment under the provisions of Sections 1 to 15 of this Act, and for collecting and utilizing the assessment for the purpose stated in the referendum. The application forms shall include, but not be limited to, the following:

(a) Applicant's name;

(b) Applicant's address;

(c) Date;

(d) Program to be undertaken for producers;

(e) Brief statement of how the program is to be implemented;

(f) Referendum to be conducted on a statewide or areawide basis;

(g) Proposed effective date of the program;

(h) Geographic area, by counties, of producers to be affected by the program; and

(i) Signature of the applicant.

(2) The Commissioner shall publish the application through the medium of the public press in the state within ten (10) days of receipt of the application.

SECTION 4. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

Upon being certified by the Commissioner, the association shall be fully authorized and empowered to hold and conduct on the part of the producers of porcine animals a referendum on the question of whether or not the producers shall levy upon themselves an assessment under, and subject to, and for the purposes stated in Sections 1 to 15 of this Act. The referendum may be conducted either on a statewide or areawide basis.

SECTION 5. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

Any referendum conducted under the provisions of Sections 1 to 15 of this Act may be held either on an areawide or statewide basis, as determined by the duly certified association before the referendum is called. The referendum may be participated in by all porcine animal producers, including owners of farms on which porcine animals are produced and tenants sharing in the proceeds of porcine animals. In the referendum, individuals eligible for participation shall vote upon the question of whether or not there shall be levied an assessment in the amount set forth in the call for the referendum.

SECTION 6. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The manner, conduct, and management of any referendum held under the provisions of Sections 1 to 15 of this Act shall be *under the supervision and direction of the Commissioner, and all expenses in connection with the referendum shall be borne by the association conducting the referendum.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) With respect to any referendum conducted under the provisions of Sections 1 to 15 of this Act, the Commissioner shall, before calling and announcing the referendum, fix, determine, and publicly announce at least thirty (30) days before the date determined for the referendum, the date, hours, and polling places for voting in the referendum, the effective date of the assessment, if adopted, the amount and basis of the assessment proposed to be collected, the means by which the assessment shall be collected if authorized by the producers, and the general purposes to which any amount collected shall be applied.

(2) Any assessment levied by any referendum conducted under the provisions of Sections 1 to 15 of this Act shall be used for the purpose of financing or contributing towards the financing of a program of research, market development, and education to increase the domestic and foreign consumption, use, sale, and markets for porcine animals and porcine animal products.

(3) No assessment levied by any referendum conducted under the provisions of Sections 1 to 15 of this Act shall exceed fifty cents ($0.50) per hundred dollars ($100) worth of sales on porcine animals marketed in the state by any producer included in the group to which the referendum was submitted or by any person subsequently becoming a new producer in the area in which the referendum was held.

SECTION 8. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) No assessment levied under Section 7 of this Act shall be effective as long as the Federal Pork Promotion, Research, and Consumer Information Act of 1985 is in effect.

(2) If the federal act is terminated or suspended, any assessment levied under Section 7 of this Act shall become effective and shall be collected and utilized according to the provisions of Sections 1 to 15 of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The hours, voting places, rules and regulations, and the area within which the referendum will be conducted shall be established and determined by the Commissioner. The referendum date, area, hours, voting places, and rules and regulations with respect to the holding of the referendum shall be published by the Commissioner through the medium of the public press in the Commonwealth of Kentucky at least thirty (30) days before the holding of the referendum, and direct written notice shall also be given to each county or area agricultural extension agent in any county covered by the referendum. The notice shall also contain a statement of the amount of the assessment proposed to be levied, and shall state the method by which the assessment shall be collected and how the proceeds from the assessment shall be administered and the purposes to which the proceeds shall be applied, which purposes shall be in keeping with the provisions of Sections 1 to 15 of this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

The Commissioner shall prepare and distribute in advance of the referendum the question to be presented to the voters and shall arrange for the necessary poll holders for conducting the referendum. Within ten (10) days following the referendum, the Commissioner shall canvass and publicly declare the result of the referendum.

SECTION 11. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

If, in the referendum called under the provisions of Sections 1 to 15 of this Act, a majority of the eligible producers in the area in which the referendum is conducted, who vote in the referendum, vote in the affirmative and in favor of levying and collecting the assessment proposed in the referendum, then the assessment shall be collected in the manner determined and announced by the association conducting the referendum.

SECTION 12. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) If a majority of the eligible producers who vote in the referendum vote in favor of the assessment, then the Commissioner shall notify by certified mail every person licensed to operate a livestock market in the state, and every person who operates a meat packing or slaughter establishment which buys porcine animals directly from the producer, that on and after the date designated in the notice, which shall be not less than thirty (30) days nor more than sixty (60) days after the mailing of the notice by the Commissioner, the amount of the assessment shall be deducted by all sales markets or purchasers of porcine animals, or by their agents or representatives, from the purchase price paid the seller of porcine animals.

(2) On or before the fifteenth day of each month all assessments deducted shall be remitted to the association certified by the assessment referendum, less three percent (3%) which may be retained to compensate the livestock market operator, meat packer, or slaughter establishment operator for the expense of collecting and remitting the assessment.

(3) The books and records of all livestock market operators, meat packers, and slaughter establishment operators shall at all times during regular business hours be open for inspection by the Commissioner or his duly authorized agents for the purpose of ascertaining the accuracy of the amounts remitted.

SECTION 13. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

If the referendum is carried in the affirmative and the assessment is levied and collected as provided, any producer upon and against whom the assessment has been levied and collected under the provisions of Sections 1 to 15 of this Act, if dissatisfied *with the assessment and the result of the assessment, shall have the right to demand of and receive from the treasurer of the certified association a refund of the assessment collected from the producer if the demand for refund is made in writing within thirty (30) days from the date on which the assessment is collected from the producer.*

SECTION 14. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) The board shall review the assessment program annually. If, at the end of each year after the first year of the assessment program, the board determines that fifty percent (50%) of the producers in the referendum area are not participating in the program, the Commissioner shall then conduct a referendum among the producers in the area. If, after holding the referendum, a majority of the producers in the area reject the program, it shall be terminated as of the end of the month in which the referendum for the area was conducted and held; otherwise, the assessment program shall continue in effect.

(2) If the certified association of producers expresses in writing its desire to the Commissioner to discontinue the assessment program and terminate the program, the Commissioner shall, within fifteen (15) days following receipt of the request, convene the board to review and act on the request. The board, after reviewing the request and conducting whatever proceedings are deemed appropriate and necessary in connection with the request, may terminate the program effective at the end of the month in which the board action is taken. If the program is terminated, the Commissioner shall notify, by certified mail, all operators of a livestock market, meat packing establishment, or slaughter establishment of the termination of the program.

(3) If the certified association requests the Commissioner, in writing, to hold a referendum on the question of increasing the assessment within the limits of Sections 1 to 15 of this Act, the Commissioner shall, within fifteen (15) days of the receipt of the request, convene the board to review and act on the request. The board, after reviewing the request and conducting whatever proceedings are deemed appropriate and necessary with the request, shall, if the request is approved, conduct a referendum in accordance with the provisions of Sections 1 to 15 of this Act.

SECTION 15. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

If, in the judgment of the board or the duly certified association, an operator of a livestock market, meat packing establishment, or slaughter establishment has engaged in or is about to engage in any acts or practices that constitute a violation of any of the provisions of Sections 1 to 15 of this Act, the board or the duly certified association may make application to the Franklin Circuit Court for an order enjoining the act, or acts, or practices and obtain a restraining order and preliminary injunction against the operator.

HCR 26, A CONCURRENT RESOLUTION confirming the appointment of Sid Stewart to the Kentucky Agricultural Development Board.

WHEREAS, KRS 248.707 requires the Governor to appoint members to the Agricultural Development Board subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, on August 22, 2003, by Executive Order 2003-866, the Governor appointed Sid Stewart to the Agricultural Development Board for a term expiring July 6, 2007; and

WHEREAS, Sid Stewart replaces Seth Allen Conner, an active farmer, whose term has expired; and

WHEREAS, Sid Stewart has been appointed as meeting the requirements of KRS 248.707, being an active farmer who otherwise meets the requirements of KRS 11.160;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. Consent is given to the appointment of Sid Stewart to the Agricultural Development Board for a term expiring July 6, 2007.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution and notification of its adoption to Sid Stewart, 2820 Liberty Road, West Liberty, Kentucky 41472 and to the Governor.

HCR 27, A CONCURRENT RESOLUTION confirming the reappointment of Sam Lawson to the Kentucky Agricultural Development Board.

WHEREAS, KRS 248.707 requires the Governor to appoint members to the Agricultural Development Board subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, on August 22, 2003, by Executive Order 2003-866, the Governor reappointed Sam Lawson to the Agricultural Development Board for a term expiring July 6, 2007; and

WHEREAS, Sam Lawson has been reappointed as meeting the requirements of KRS 248.707, being an agribusiness person who is a member of the Kentucky Chamber of Commerce and who otherwise meets the requirements of KRS 11.160;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. Consent is given to the reappointment of Sam Lawson to the Agricultural Development Board for a term expiring July 6, 2007.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution and notification of its adoption to Sam Lawson, 395 Briggs Hill Road, Bowling Green, Kentucky 42101 and to the Governor.

HCR 35, A CONCURRENT RESOLUTION confirming the reappointment of Willa H. Poynter to the Agricultural Development Board.

WHEREAS, KRS 248.707 requires the Governor to appoint members to the Agricultural Development Board subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, on October 31, 2003, by Executive Order 2003-1104, the Governor reappointed Willa H. Poynter to the Agricultural Development Board for a term expiring July 6, 2005; and

WHEREAS, Willa H. Poynter has been reappointed as meeting the requirements of KRS 248.707, being an active farmer representing a substantially tobacco-impacted county and who otherwise meets the requirements of KRS 11.160;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. Consent is given to the reappointment of Willa H. Poynter to the Agricultural Development Board for a term expiring July 6, 2005.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution and notification of its adoption to Willa H. Poynter, 7229 Taylor Mill Road, Maysville, Kentucky 41056 and to the Governor.

HCR 36, A CONCURRENT RESOLUTION confirming the reappointment of Susan G. Harkins to the Agricultural Development Board.

WHEREAS, KRS 248.707 requires the Governor to appoint members to the Agricultural Development Board subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, on October 31, 2003, by Executive Order 2003-1104, the Governor reappointed Susan G. Harkins to the Agricultural Development Board for a term expiring July 6, 2007; and

WHEREAS, Susan G. Harkins has been reappointed as meeting the requirements of KRS 248.707, being an active farmer who has experience in agricultural diversification and who otherwise meets the requirements of KRS 11.160;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. Consent is given to the reappointment of Susan G. Harkins to the Agricultural Development Board for a term expiring July 6, 2007.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution and notification of its adoption to Susan G. Harkins, 4954 Paris Pike, Lexington, Kentucky 40511 and to the Governor.

HCR 87, A CONCURRENT RESOLUTION urging the members of the United States Congress to suspend the carry-forward adjustment provision relating to burley tobacco in the Agricultural Risk Protection Act of 2000.

WHEREAS, the 2000 Act limits the allowable carryover of unused tobacco quota to 10% of the national effective quota; and

WHEREAS, it appears that the unused quota will exceed 10%, thereby resulting in many farmers losing potential quota pounds to sell in the 2004 season; and

WHEREAS, the loss of income from those pounds will have a devastating effect on the economic stability of burley tobacco growers; and

WHEREAS, there has already been a drastic decline in tobacco quotas over the past several years, resulting in great hardship on tobacco dependent communities throughout the Commonwealth; and

WHEREAS, there is uncertainty surrounding the continuation of the burley tobacco program;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Kentucky General Assembly urges the members of the United States Congress to suspend the carry-forward adjustment provision relating to burley tobacco in the Agricultural Risk Protection Act of 2000.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Kentucky delegation of the United States Congress and the Secretary of the United States Department of Agriculture.

Calendar

HCR 8, 44, 45, HJR 64, HB 131, 193, HCR 22, and **HB 89** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Rules Committee report. Agreed. The Rules Report was not in possession of the Clerk.

Report of Committees

The Committee on Rules reported that **HB 89, 131, 193, HCR 22, 44, 45,** and **HJR 64** have been posted for passage in the Regular Orders of the Day for January 23, 2004.

The Committee on Rules reported that the following Bill has been recommitted:

Local Government: **HB 109**

Orders of the Day

The Speaker Pro Tem assumed the Chair.

HB 1, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of the Committee Substitute to **HB 1**. Agreed.

Representative Richards moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 1**. Agreed.

Representative Richards moved that **HB 1**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 1**. (See January 22, 2004, roll call on **HB 1** - Appendix.)

HB 1, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 1**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 49 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **HB 49** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See January 22, 2004, roll call on **HB 49** - Appendix.)

HB 49 was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 49** was passed be reconsidered and said motion be placed on the table. Agreed.

Speaker Richards assumed the Chair.

HB 167 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meeks moved that **HB 167** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See January 22, 2004, roll call on **HB 167** - Appendix.)

HB 167 was passed and the title agreed to.

Representative Meeks moved that the vote by which **HB 167** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 52 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jenkins moved that **HB 52** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See January 22, 2004, roll call on **HB 52** - Appendix.)

HB 52 was passed and the title agreed to.

Representative Jenkins moved that the vote by which **HB 52** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 20, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of the Committee Substitute to **HB 20**. Agreed.

Representative Damron moved that **HB 20**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See January 22, 2004, roll call on **HB 20** - Appendix.)

HB 20, by way of Committee Substitute, was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 20**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 202 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Adams moved that **HB 202** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See January 22, 2004, roll call on **HB 202** - Appendix.)

HB 202 was passed and the title agreed to.

Representative R. Adams moved that the vote by which **HB 202** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 249, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of Committee Amendment No. 1 to **HB 249**. Agreed.

Representative Moberly moved that **HB 249**, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See January 22, 2004, roll call on **HB 249**- Appendix.)

HB 249, as amended, was passed.and the title agreed to.

Representative Moberly moved that the vote by which **HB 249**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 15 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved that **HCR 15** be adopted.

On the roll call the vote was: **Yeas 96, Nays 0**. (See January 22, 2004, roll call on **HCR 15** - Appendix.)

HCR 15 was adopted.

Representative Webb moved that the vote by which **HCR 15** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 20 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nelson moved that **HCR 20** be adopted.

On the roll call the vote was: **Yeas 95, Nays 0**. (See January 22, 2004, roll call on **HCR 20** - Appendix.)

HCR 20 was adopted.

Representative Nelson moved that the vote by which **HCR 20** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 148, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HB 148**. Agreed.

Representative Burch moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 148**. Agreed.

Representative Burch moved that **HB 148**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 51, Nays 37**. (See January 22, 2004, roll call on **HB 148** - Appendix.)

HB 148, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 148**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative McKee moved to introduce and act upon a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 92, by Representative McKee: A RESOLUTION honoring Dr..Edward Sinclair Ford, Jr.

Motions, Petitions, and Communications (Continued)

Representative McKee moved the adoption of the following **HR 92**:

HR 92, A RESOLUTION honoring Dr. Edward Sinclair Ford, Jr.

"The service a man renders his friend is trivial and selfish, compared with the service he knows his friend stood in readiness to yield him, alike before he had begun to serve his friend, and now also. Compared with that good-will I bear my friend, the benefit it is in my power to render him seems small."

Ralph Waldo Emerson, "Gifts," in *Essays, Second Series* (1844)

WHEREAS, Dr. Edward Sinclair Ford, Jr. has been a resident of the Commonwealth of Kentucky for many years; and

WHEREAS, Dr. Edward Sinclair Ford, Jr. served the citizens of the United States of America by serving in the United States Navy from 1948 through 1952, with service extending into the Korean Conflict from 1950 to 1952; and

WHEREAS, After his honorable service with the United States Navy, Dr. Edward Sinclair Ford, Jr. entered into the honored field of veterinary practice after matriculating from Auburn University in 1958, founding the Harrison Veterinary Clinic in Cynthiana, Kentucky, and receiving several professional awards; and

WHEREAS, Dr. Edward Sinclair Ford, Jr. has benefited his community through participation in the Cynthiana Rotary Club and the Cynthiana-Harrison County Chamber of Commerce, where he has served as President, Vice President, and Chairman of the Board, and through many years of service on the Harrison County School Board, where he also served as chair; and

WHEREAS, Dr. Edward Sinclair Ford, Jr. received the accolades of his service through the reception of the Citizen of the Year Award in 1975, and the Distinguished Service Award in 1994, both presented by the Cynthiana-Harrison Chamber of Commerce; and

WHEREAS, Dr. Edward Sinclair Ford, Jr. served the citizens of the Commonwealth of Kentucky with 17 years of exceptional service in the Senate of the Kentucky General Assembly, lending his expertise from 1978 to 1995, receiving the accolade of Outstanding Freshman Senator in 1979, and participating on the Agriculture and Natural Resources Committee, the Joint Sub-Committee on Learning Disabilities, the Counties and Special Districts Committee, the Joint Committee on Environmental Affairs, the State Government Committee, the notable Educational Accountability Committee, and the Senate Education Committee, where he was Chair for four years; and

WHEREAS, Dr. Edward Sinclair Ford, Jr. further acted in service to the citizens of the Commonwealth through his aid of the Governor of Kentucky where he most recently served as the Secretary of the Governor's Executive Cabinet, but was also the Deputy Secretary beforehand, and where he also contributed his talents as Education Policy Advisor; and

WHEREAS, Dr. Edward Sinclair Ford, Jr.'s talents in science and administration were exercised in service to the Central Mid-West Low Level Radioactive Waste Compact Commission, where he was the Commissioner and Chair; and

WHEREAS, Dr. Edward Sinclair Ford, Jr. is the beloved husband of Dorothy Monson Ford, and is a loving father, and a doting grandfather;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby recognize the manifold acts of excellent service that Dr. Edward Sinclair Ford, Jr. has yielded to the citizens of the Commonwealth of Kentucky through a career filled with accolades and accomplishments, and the House of Representatives further presents his example of civic-mindedness and servitude to the entirety of the Commonwealth, for he, for many years, has been a friend who stood both in readiness, as well as in action, to yield service to all.

Section 2. The House of Representatives extends its best wishes to Dr. Edward Sinclair Ford, Jr. in all his future endeavors with the full knowledge that those endeavors, too, will bear copious, sweet fruits, as has been proven by his past efforts.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Dr. Edward S. Ford, Jr., 2169 U.S. 27 North, Cynthiana, Kentucky.

There being no objection, **HR 92** was adopted.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 351, by Representatives Pasley and Moberly: AN ACT relating to prescription drugs.

HB 352, by Representatives Damron and Bruce: AN ACT relating to the corporate license tax and declaring an emergency.

HB 353, by Representative Jenkins: AN ACT relating to crimes and punishments.

HB 354, by Representative Jenkins: AN ACT relating to criminal sexual abuse.

HB 355, by Representative Nelson: AN ACT relating to forest lands.

HB 356, by Representative J. Thompson: AN ACT relating to driver education programs and making an appropriation therefor.

HB 357, by Representatives Rand, R. Adams, Draud, and Callahan: AN ACT relating to motor vehicles.

HB 358, by Representatives Gray, Hall, Nelson, Harmon, Collins, and Rader: AN ACT relating to child welfare.

HJR 91, by Representative Belcher: A JOINT RESOLUTION renaming the Paris By-Pass in Bourbon County.

HR 93, by Representative P. Clark: A RESOLUTION adjourning the House of Representatives in honor of the Reverend Terry L. Sammons upon the occasion of his retirement on December 31, 2003.

HR 94, by Representatives Webb and Rader: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Dr. Virginia Daugherty Kratz.

HR 95, by Representatives T. Thompson, J. Arnold, and Palumbo: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Carrie Lee Newman Kuegel.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and a Resolution have been posted for Committee consideration:

Appropriations and Revenue: **HB 163**

Education: **HB 183, 195, 37**

Health and Welfare: **HB 100, 337, 322, 321, 74, HCR 78**

State Government: **HB 244, 289, 295, 325, 340**

Motions, Petitions, and Communications (Continued)

Representative Cherry moved to withdraw **HB 235**. Agreed.

Representative Palumbo moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Palumbo moved that she be recorded as voting "yea" on **HB 148**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "nay" on **HB 1**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 49, 167, 52, 20, 202, 249, HCR 15,** and **20**. Agreed.

Representative Stein moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Stein moved that she be recorded as voting "yea" on **HB 4, 94, 113, 225, HCR 29,** and **39**. Agreed.

Floor Amendments

Floor Amendment No. 2 to the Committee Substitute to **HB 105**, by Representative J. Lee:

HB 105, On page 24, line 14 by deleting the phrase "***within the meaning of KRS Chapter 209***".

Floor Amendment No. 1 to the Committee Substitute to **HB 344**, by Representative Brinkman:

HB 344, On page 1, at line 18, before the word "candidate", by inserting the words "***clearly identified***"; and

On page 1, at line 19, after the words "ballot in", by inserting the word "***a***"; and

On page 1, at line 19, by bracketing and striking through the word "any"; and

On page 1, at line 19, after the word "manner", by inserting the words "***which expressly advocates the election or defeat of the candidate or expressly advocates the passage or defeat of the ballot issue***"; and

On page 3, at line 21, before the word "***candidate***" by inserting the words "***clearly identified***"; and

On page 3, at line 22, after the words "***ballot in***", by inserting the word "***a***"; and

On page 3, at line 22, by deleting the word "***any***"; and

On page 3, at line 22, after the word "***manner***", by inserting the words "***which expressly advocates the election or defeat of the candidate or expressly advocates the passage or defeat of the ballot issue***".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 49, Representative Yonts

HB 52, Representatives Crenshaw, Kerr, Hall, and Yonts

HB 76, Representative Crenshaw

HB 80, Representative Marzian

HB 82, Representative Westrom

HB 89, Representatives Palumbo and Meeks

HB 92, Representative Hoffman

HB 107, Representative Callahan

HB 113, Representatives Farmer, Riggs, and Edmonds

HB 124, Representative Jenkins

HB 125, Representative Jenkins

HB 135, Representative Belcher

HB 136, Representative Belcher

HB 148, Representative Higdon

HB 188, Representative Riggs

HB 207, Representatives Callahan and Napier

HB 218, Representative Higdon

HB 225, Representative Riggs

HB 249, Representatives Riggs, Hall, and Denham

HB 277, Representative Palumbo

HB 283, Representative Yonts

HB 289, Representative Crall

HB 323, Representatives Draud, Walton, Fischer, and Marcotte

HB 336, Representative Jenkins

HB 338, Representative Bather

HB 346, Representative Crimm

HCR 20, Representative Yonts

HCR 44, Representative Cherry

HCR 45, Representative Cherry

HR 76, Representative Crimm

Announcements

The following meetings were announced:

Budget Review Subcommittee on Justice and Judiciary - Monday, January 26, 2004, Room 131, 12:00 Noon

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 9:00 a.m., Friday, January 23, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 9:00 a.m., Friday, January 23, 2004, was adopted by voice vote.

FRIDAY, JANUARY 23, 2004

THIRTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Father Al Fritsch, Good Shepherd Catholic Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Bratcher, Draud, Haydon, and Marzian.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 22, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage **SB 77** and **SB 4**. (Time: 9:10 a.m.)

Introduction of Bills and Resolutions

HB 359, by Representative Stein: AN ACT relating to controlled substances.

HB 360, by Representatives Stein, Marzian, and Jenkins: AN ACT relating to unemployment insurance.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 352**

Health and Welfare: **HB 351, 358**

Judiciary: **HB 353, 354**

Natural Resources and Environment: **HB 355**

Transportation: **HB 356, 357, HJR 90, 91**

House Floor: **HR 93, 94, 95**

Calendar

HB 72, 116, 149, 159, 160, 242, 344, 281, 283, 286, 287, HCR 26, 27, 35, 36, and **87** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Rules Committee report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 72, 159, 160, 242, 281, 283, 286, 287, 344, HCR 26, 27, 35, 36, 87,** and **HB 19** have been posted for passage in the Regular Orders of the Day for January 26, 2004.

Orders of the Day

HB 188, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved the adoption of the Committee Substitute to **HB 188**. Agreed.

Representative Weaver moved that **HB 188**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See January 23, 2004, roll call on **HB 188** - Appendix.)

HB 188, by way of Committee Substitute, was passed and the title agreed to.

Representative Weaver moved that the vote by which **HB 188**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 105, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Lee moved the adoption of the Committee Substitute to **HB 105**. Agreed.

Representative J. Lee moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 105**. Agreed.

Representative J. Lee moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 105**. Agreed.

Representative J. Lee moved that **HB 105**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 89, Nays 0**. (See January 23, 2004, roll call on **HB 105** - Appendix.)

HB 105, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative J. Lee moved that the vote by which **HB 105**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 45 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **HCR 45** be adopted.

On the roll call the vote was: **Yeas 88, Nays 2**. (See January 23, 2004, roll call on **HCR 45** - Appendix.)

HCR 45 was adopted.

Representative Gray moved that the vote by which **HCR 45** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 44 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **HCR 44** be adopted.

On the roll call the vote was: **Yeas 87, Nays 3**. (See January 23, 2004, roll call on **HCR 44** - Appendix.)

HCR 44 was adopted.

Representative Gray moved that the vote by which **HCR 44** was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Webb moved that the rules be suspended to act on a Resolution. Agreed.

Representative Webb moved the adoption of the following **HR 94**:

HR 94, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Dr. Virginia Daugherty Kratz.

With deepest respect and admiration, we pay homage and tribute to Dr. Virginia Daugherty Kratz, and we pause in silent reverence for her soul.

WHEREAS, Virginia Daugherty Kratz was born on November 11, 1923, a native of Independence, Kenton County, Kentucky, and she traversed these earthly bounds on January 17, 2004; and

WHEREAS, Virginia Daugherty Kratz was the loving daughter of the late Frank Daugherty and Virginia Hogrefe Kratz; she was the loving mother of a daughter, State Senator Katie Kratz Stine of Fort Thomas, and a son, Dr. Robert Kevin Kratz of Cary, North Carolina; and she was the proud grandmother of five grandchildren; and

WHEREAS, Virginia Daugherty Kratz graduated from the University of Cincinnati School of Medicine in 1947, where she was one of nine women in her graduating class; she spent a year as a public health official in Florida, after which time, she returned to Kentucky as the public health officer for Owen, Grant, Gallatin, Pendleton, and Boone counties, becoming only the second woman in the state to hold this position, and where she was fondly referred to as "the lady doctor" to her patients; and

WHEREAS, after raising her children during the 1960s, Virginia Daugherty Kratz returned to the practice of medicine, doing her residency at Rollman Psychiatric Hospital in Cincinnati, where she practiced medicine for seven years until her health forced her into retirement; and

WHEREAS, Virginia Daugherty Kratz was a strong and independent woman who was born into a family with a rich medical tradition; and throughout her life, she exhibited exceptional courage, and contributed many years of dedicated medical service to her fellow man; and

WHEREAS, the passing of Virginia Daugherty Kratz has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Dr. Virginia Daugherty Kratz, and extends to her family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Dr. Virginia Daugherty Kratz.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Honorable Katie Kratz Stine, 15 Cliffview Avenue, Fort Thomas, Kentucky 41075.

There being no objection, **HR 94** was adopted.

Representative T. Thompson moved that the rules be suspended to introduce and act on a Resolution. Agreed.

Representative T. Thompson moved the adoption of the following **HR 95**:

HR 95, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Carrie Lee Newman Kuegel.

With deepest respect and admiration, we pay homage and tribute to Carrie Lee Newman Kuegel, and we pause in silent reverence for her soul.

WHEREAS, Carrie Lee Newman Kuegel was born on April 16, 1925, a native of Owensboro, Daviess County, Kentucky, and she traversed these earthly bounds on January 13, 2004; and

WHEREAS, Carrie Lee Newman Kuegel was the loving daughter of the late John Franklin Newman Sr. and Hellan Blandford Newman; she was the devoted wife of 57 years to William Martin Kuegel Sr.; she was the loving mother of a son, William Martin Kuegel Jr., and a daughter, Marcia Lee Kuegel Carpenter; she was the proud grandmother of five grandchildren, Jefferson Bryant Carpenter II, Caroline David Harralson, John Kuegel Harralson, Martin Lucas Kuegel, and William Clay Kuegel; she leaves behind two loving sisters, Anna Newman Bivins and Amy Newman McNamara, and a loving brother, Claude Blandford Newman; and she also leaves behind an honorary son and daughter, Jerry Wayne Bailey and Edna Ammons DeWeese; and

WHEREAS, Carrie Lee Newman Kuegel was an involved and outstanding citizen of the Daviess County community, where she was a devout member of the Pleasant Grove Baptist Church, where her funeral service was held on January 15, 2004, and where she was a Sunday school teacher and a member of the church choir; and

WHEREAS, Carrie Lee Newman Kuegel was a graduate of Western Kentucky School of Business, and she was retired from the doctor's offices of the late William Lee Tyler Sr. and William Lee Tyler Jr.; and

WHEREAS, Carrie Lee Newman Kuegel was a member of the Daughters of the American Revolution, the Owensboro RiverPark Board of Directors, and the Daviess County Democratic Women's Club; she was a 4-H leader, past president of the PTA, and homeroom mother at Sorgho Elementary School; she directed the preservation of the one-room Pleasant Grove School, and had the school relocated to Panther Creek Park; and she traveled with the Friendship Force to Russia, China, Australia, Japan, and South America; and

WHEREAS, the passing of Carrie Lee Newman Kuegel has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Carrie Lee Newman Kuegel, and extends to her family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Carrie Lee Newman Kuegel.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. William Martin Kuegel Sr., 5250 Haycraft Road, Owensboro, Kentucky 42301.

There being no objection, **HR 95** was adopted.

Representative Adkins moved that the rules be suspended for the Introduction and Posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 361, by Representatives Denham, Thomas, Rand, Comer, Bruce, Wilkey, Richards, Stacy, Pasley, Webb, L. Clark, McKee, A. Arnold, R. Adams, Hoffman, Barrows, Callahan, and Adkins: AN ACT relating to rural development.

HR 96, by Representatives Callahan, Denham, Rand, Draud, Feeley, Simpson, Walton, Marcotte, Hoffman, Damron, Palumbo, Jenkins, and Weaver: A RESOLUTION declaring January 29, 2004 as Preservation Day in Kentucky and adjourning the House of Representatives in honor of the Kentucky Heritage Council and the Renaissance Kentucky Main Street Program.

HR 97, by Representative Geveden: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Wyman Maxey.

Motions, Petitions, and Communications (Continued)

Representative Burch moved to withdraw **HB 150**. Agreed.

Representative Kerr moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Kerr moved that he be recorded as voting "nay" on **HB 148**. Agreed.

Representative DeWeese moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative DeWeese moved that he be recorded as voting "yea" on **HB 148**. Agreed.

Representative Marcotte moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Marcotte moved that he be recorded as voting "nay" on **HB 148**. Agreed.

Representative Sims moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Sims moved that she be recorded as voting "yea" on **HB 1, 52, 20, 167, 202, 249, 49, 148, HCR 15,** and **HCR 20**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Crenshaw moved that he be recorded as voting "yea" on **HB 188, 105, HCR 44,** and **HCR 45**. Agreed.

Floor Amendments

Floor Amendment No. 1 to **HB 131**, by Representative Rasche:

HB 131, On page 1, line 3, by inserting "*(1)*" before "*Any*"; and

On page 1, line 6, by inserting before "*A*" the following:

"***Except as provided in subsection (2) of this section,***"; and

On page 1, line 8, by deleting "***presence or***"; and

On page 1, after line 11, by inserting the following:

"*(2) If the institution has an automatic fire suppression system in place at every on-campus housing facility under the control of the institution, the institution shall be exempt from this Act.*".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 11, Representative Dw. Butler

HB 113, Representative Damron

HB 188, Representative Buckingham

HB 225, Representative Damron

HB 226, Representative Buckingham

HB 339, Representative Wilkey

HB 344, Representatives L. Clark, Adkins, Callahan, Barrows, Hoover, DeWeese, Upchurch, and Brinkman

HB 352, Representatives Pasley and T. Thompson

HCR 17, Representative Cherry

HCR 44, Representatives B. Smith, Cornett, Geveden, Pullin, Kerr, Nelson, Collins, Weaver, Fischer, and Hall

HCR 45, Representatives Riggs, Sims, Fischer, Geveden, Cornett, B. Smith, Kerr, Gooch, Nelson, Weaver, Hall, Collins, and Pullin

HCR 78, Representative Cherry

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 4:00 p.m., Monday, January 26, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 4:00 p.m., Monday, January 26, 2004, was adopted by voice vote.

MONDAY, JANUARY 26, 2004

FOURTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Dr. Hershael York, Buck Run Baptist Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Coleman, Rader, Reinhardt, and Stein.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 23, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Hoffman moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. (Guests were not present.)

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 361**

Judiciary: **HB 359**

Labor and Industry: **HB 360**

House Floor: **HR 96, 97**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Health and Welfare: **HB 56, 67, 115, 261**

Orders of Day

HB 208 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved that **HB 208** be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See January 26, 2004, roll call on **HB 208** - Appendix.)

HB 208 was passed and the title agreed to.

Representative A. Arnold moved that the vote by which **HB 208** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 89 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 89** be passed.

On the roll call the vote was: **Yeas 80, Nays 12**. (See January 26, 2004, roll call on **HB 89** - Appendix.)

HB 89 was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 89** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 87 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pasley moved that **HCR 87** be adopted.

On the roll call the vote was: **Yeas 90, Nays 0**. (See January 26, 2004, roll call on **HCR 87** - Appendix.)

HCR 87 was adopted.

Representative Pasley moved that the vote by which **HCR 87** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 27 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HCR 27** be adopted.

On the roll call the vote was: **Yeas 94, Nays 0**. (See January 26, 2004, roll call on **HCR 27** - Appendix.)

HCR 27 was adopted.

Representative Adkins moved that the vote by which **HCR 27** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 35 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HCR 35** be adopted.

On the roll call the vote was: **Yeas 95, Nays 0**. (See January 26, 2004, roll call on **HCR 35** - Appendix.)

HCR 35 was adopted.

Representative Adkins moved that the vote by which **HCR 35** was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Hoffman moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. (Guests were not available.)

Representative Geveden moved the adoption of the following **HR 97**:

HR 97, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Wyman Maxey.

With deepest respect and admiration, we pay homage and tribute to Wyman Maxey, and we pause in silent reverence for his soul.

WHEREAS, Wyman Maxey was born on August 3, 1931, a native and longtime resident of Ballard County, Kentucky; and

WHEREAS, Wyman Maxey was the loving son of the late James Ervie Maxey and Suana Hagood Maxey; he was the devoted husband of Betty Arrington Maxey; he was the loving father of three sons, Gary Maxey and Mark Maxey, both of Wickliffe, and Tony Maxey of Jackson, Tennessee; he was the proud grandfather of seven grandchildren, and the proud great-grandfather of a great-grandchild; and he also leaves behind two loving brothers, John Earl Maxey of Roseville, Michigan, and Melvin "Tom" Maxey of Danville, Indiana; and

WHEREAS, Wyman Maxey was an esteemed member of the Ballard County community; he was a devout member of Shady Grove Baptist Church, where he also served as songleader and Sunday school teacher; he was a retired Gerber Products salesman, and was a member of the Blandville Volunteer Fire Department; he was a board member of the Ballard Rural Telephone Cooperative and the Old Blandville Cemetery; and he was a member of the Honorable Order of Kentucky Colonels; and

WHEREAS, the passing of Wyman Maxey has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Wyman Maxey, and extends to his family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Wyman Maxey.

Section 3. The Clerk of the House of Representatives is hereby ordered to transmit a copy of this Resolution to Mrs. Betty Arrington Maxey, 5105 Parkside Drive, Paducah, Kentucky 42001.

There being no objection, **HR 97** was adopted.

Representative Hoffman moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Hoffman moved the adoption of the following **Legislative Citation No. 14**.

The House of Representatives of the Commonwealth of Kentucky hereby offers a most enthusiastic welcome to the students of both the Christian and Missionary Sun Kei Secondary School of Hong Kong, China, and the Scott County School District as they visit the chambers of the Kentucky House of Representatives to witness a day in the 2004 Regular Session of the Kentucky General Assembly. As esteemed participants in an invaluable partnership formed between the teachers and students of the Christian and Missionary Sun Kei Secondary School and the schools of Scott County, Kentucky, these young scholars have demonstrated a laudable understanding of the critical importance of the exchange of information, educational techniques, and cultural experiences between citizens of the many varied cultures of this world in an effort to prepare for both the opportunities and the challenges to be expected from worldwide globalization and the development of knowledge-based societies. Inasmuch as each of these welcomed visitors have demonstrated great vision and enthusiasm by their willingness to participate in this worthwhile endeavor, the members of this august body are delighted to join with Representative Charlie Hoffman in commending the students of the Christian and Missionary Sun Kei Secondary School and the Scott County School District and in extending to each best wishes for future success and good fortune. Done in Frankfort, Kentucky, this twenty-sixth day of January, in the year two thousand and four.

Legislative Citation No. 14 was adopted without objection.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 362, by Representative Jenkins: AN ACT relating to containers for wine and distilled spirits.

HB 363, by Representative Jenkins: AN ACT relating to crimes and punishments.

HB 364, by Representatives Weaver, Hayden, Westrom, Palumbo, Nesler, A. Arnold, and Damron: AN ACT proposing an amendment to Section 42 of the Constitution of Kentucky relating to legislative sessions.

HB 365, by Representative McKee: AN ACT relating to traffic regulations.

HB 366, by Representative Yonts: AN ACT relating to crimes against children.

HB 367, by Representative Yonts: AN ACT relating to crimes and punishments.

HB 368, by Representative Bather: AN ACT relating to peace officer training.

HB 369, by Representatives Collins and Hall: AN ACT relating to on-site sewage disposal system permits.

HB 370, by Representatives Collins and Hall: AN ACT relating to on-site sewage disposal.

HB 371, by Representative Wilkey: AN ACT relating to criminal record expungement.

HB 372, by Representatives T. Thompson and B. Smith: AN ACT relating to insurance.

HB 373, by Representative Simpson: AN ACT relating to the taxation of abandoned urban property by cities of the second class.

HB 374, by Representative Gray: AN ACT relating to crimes and punishments.

HB 375, by Representatives Kerr, Marcotte, Walton, Simpson, and R. Adams: AN ACT relating to special license plates.

HB 376, by Representatives Jenkins, Brinkman, and Comer: AN ACT relating to the homelessness prevention pilot project.

HJR 98, by Representative Gooch: A JOINT RESOLUTION relating to the regulation of the noncoal mineral industry and declaring an emergency.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Transportation: **HB 350, 326, 142**

Agriculture and Small Business: **HB 361**

Motions, Petitions, and Communications (Continued)

Pursuant to **HR 2,** the Speaker appointed the following committee to wait upon Governor Ernie Fletcher for his Budget Address to a Joint Session of the General Assembly: Representatives Gooch, Brinkman, Napier, Marcotte, T. Turner, and Webb.

Representative Moberly moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Moberly moved that he be recorded as voting "yea" on **HB 105**. Agreed.

Representative Gray moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Gray moved that he be recorded as voting "yea" on **HCR 45**. Agreed.

Representative S. Lee moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative S. Lee moved that his vote be changed from "nay" to "yea" on **HB 89**. Agreed.

Representative Simpson moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Simpson moved that he be recorded as voting "yea" on **HB 208** and **HB 89**. Agreed.

Representative Westrom moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Westrom moved that she be recorded as voting "yea" on **HB 89** and **HB 208**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Crenshaw moved that his votes be changed from "yea" to "nay" on **HCR 44** and **HCR 45**. Agreed.

Representative Marzian moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Marzian moved that she be recorded as voting "yea" on **HB 105** and **HB 188**. Agreed.

Representative Marzian moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Marzian moved that she be recorded as voting "nay" on **HCR 44** and **HCR 45**. Agreed.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 116**, by Representative J. Lee:

HB 116, On page 1, line 5, by deleting "***long-term care services***" and inserting "***services and supports***" in lieu thereof; and

On page 1, line 9, after "***requirements,***" by inserting "***has a person-centered plan,***"; and

On page 1, line 11, by deleting "***Covered long-term care services***" and inserting "***Covered services and supports***" in lieu thereof; and

On page 1, line 11, by deleting "***those long-term care services***" and inserting "***those services and supports***" in lieu thereof; and

On page 1, line 13, after "***assessment***" by inserting "***and pursuant to a person-centered plan***"; and

On page 1, line 14, after "***entity***" by inserting "***that is independent from any entity that provides services and supports through the Kentucky Independence Plus though Consumer-Directed Services Program and***"; and

On page 1, line 14, after "***cabinet***" by inserting "***to provide service***"; and

On page 1, line 18, by deleting "***and caregivers***"; and

On page 1, line 20, by deleting "***licensed or otherwise permitted to render***" and inserting "***that renders***" in lieu thereof; and

On page 1, line 23, by deleting "***caregiver***" and inserting "***person or agency that renders services eligible for reimbursement under this program***" in lieu thereof; and

On page 2, line 5, after the period by inserting "***The advisor shall be independent of any entity that provides services and supports through the Kentucky Independence Plus through Consumer-Directed Services Program, with the exception that the advisor and fiscal intermediary may both be located within the same entity.***"; and

On page 2, line 13, after "***to***" by inserting "***assist with the design of their programs and***"; and

On page 2, line 14, by deleting "***long-term care***"; and

On page 2, line 18, by deleting "***care***" and inserting "***services***" in lieu thereof; and

On page 2, line 19, by deleting "***who is enrolled in the program***"; and

On page 2, line 21, after "***needs***" by inserting "***, his or her person-centered plan,***"; and

On page 2, line 27, after "***services***" by inserting "***and supports***"; and

On page 2, line 27, and page 3, line 1, by deleting "***long-term care***"; and

On page 3, line 4, after the period by inserting "***The cabinet shall seek any federal waiver necessary to permit a consumer in the program to hire a family member to provide services and supports that are eligible for reimbursement.***"; and

On page 3, line 8, by deleting "***caregivers***" and inserting "***providers***" in lieu thereof; and

On page 3, line 10, by deleting "***Communicating***" and inserting "***With assistance of the cabinet, developing a person-centered plan and communicating***" in lieu thereof; and

On page 3, line 14, by deleting "***caregiver***" and inserting "***provider***" in lieu thereof; and

On page 3, line 17, by deleting "***Communicating***" and inserting "***With assistance of the cabinet, developing a person-centered plan and communicating***" in lieu thereof; and

On page 3, line 24, by deleting "***service***" and inserting "***development of a person-centered***" in lieu thereof; and

On page 3, line 25, by deleting "***service***"; and

On page 4, line 4, by deleting "***caregivers and***"; and

On page 4, lines 5 and 6, by deleting "***caregiver or***"; and

On page 4, line 13, by deleting "***care***"; and

On page 4, line 16, by deleting "***renders care***" and inserting "***provides services or supports***" in lieu thereof; and

On page 5, line 6, after "***any***" by inserting "***available grants,***"; and

On page 5, line 7, by deleting "***waivers or***" and inserting "***waivers, or federal***"; and

On page 5, line 10, after "***cabinet***" by inserting "***, with consumer input,***"; and

On page 5, line 11, by deleting "***care***".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 7, Representative Weaver

HB 18, Representative Weaver

HB 20, Representative Weaver

HB 89, Representative Marzian

HB 107, Representative Marzian

HB 183, Representative Weaver

HB 207, Representative R. Adams

HB 295, Representative J. Arnold

HB 323, Representatives Ford, Weaver, Rand, A. Arnold, Stewart, J. Arnold, Sims, Simpson, Kerr, Edmonds, Higdon, Mobley, J. Adams, Comer, Stacy, Nesler, and Belcher

HB 328, Representatives DeWeese and Brinkman

HB 358, Representative S. Lee

HCR 78, Representatives Embry and R. Adams

HCR 87, Representatives R. Adams, Yonts, and Hoffman

HJR 98, Representatives Gray and Nesler

Announcements

The following meeting was announced:

Majority Caucus - Monday, January 26, 2004, upon adjournment, Room 149

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 2:00 p.m., Tuesday, January 27, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 2:00 p.m., Tuesday, January 27, 2004, was adopted by voice vote.

TUESDAY, JANUARY 27, 2004

FIFTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Father Al Fritsch, Good Shepherd Catholic Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of January 26, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Ford moved that the rules be suspended to grant floor privileges to Mr. J. D. Crowe to entertain. Agreed.

Representative Ford moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Ford moved the adoption of the following **Legislative Citation No. 15**.

The House of Representatives of the Commonwealth of Kentucky hereby offers a most enthusiastic welcome to J.D. Crowe upon visiting the House Chambers during this day's session of the 2004 Kentucky General Assembly to provide entertainment to the members of this body. A native of Lexington/Nicholasville, Kentucky; the band leader of the Grammy Award-winning New South Band; the newest inductee to the International Bluegrass Music Association Hall of Honor; an inaugural recipient of a star in downtown Lexington on the Walk of Fame; a 2004 inductee into the Kentucky Music Hall of Fame; and one of the most beloved performers in the Commonwealth, this talented gentleman, who graces our presence today along with the Dean Osborne Band and guest instrumentalists, Danny Barnes and LRC's own Frank Kemper, is applauded for providing welcome respite from the diligent activities of this legislative session. The members of this distinguished body are honored to join with Representative Danny Ford in offering sincere gratitude to one of Kentucky's own for the effort that he has put forth in this worthwhile endeavor and in extending to him best wishes for his continuing success and good fortune. Done in Frankfort, Kentucky, this twenty-seventh day of January, in the year two thousand and four.

Legislative Citation No. 15 was adopted without objection.

Introduction of Bills and Resolutions

HB 377, by Representatives Westrom and R. Adams: AN ACT relating to sales and use tax.

HB 378, by Representative Marzian: AN ACT relating to patient safety.

HB 379, by Representative Riggs: AN ACT relating to public security at airports.

HB 380, by Representatives Edmonds and Damron: AN ACT relating to annuities.

HB 381, by Representative A. Arnold: AN ACT relating to local option elections.

HB 382, by Representative A. Arnold: AN ACT relating to school closings for elections.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and a Resolution:

Agriculture and Small Business: **SB 77**

Banking and Insurance: **HB 372**

Elections, Constitutional Amendments, and Intergovernmental Relations: **HB 364**

Health and Welfare: **HB 376**

Judiciary: **HB 363, 366, 367, 371, 374, SB 4**

Licensing & Occupations: **HB 362**

Local Government: **HB 373**

Natural Resources and Environment: **HB 369, 370, HJR 98**

State Government: **HB 368**

Transportation: **HB 365, 375**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Banking and Insurance: **HB 319, 324, 206**

Report of Committees

The Committee on Natural Resources and Environment reported **HB 301** and **HCR 63**, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 301, AN ACT relating to waste tires.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.50-878 is amended to read as follows:

(1) If money in the waste tire trust fund established by KRS 224.50-880 is not otherwise obligated ***for the purposes provided for in KRS 224.50-880(1)(a) to (d)***, the cabinet ***shall***[~~may~~] award ***grants***[~~a grant~~] to ***persons***[~~a person~~] for ***projects***[~~a project~~] that will manage waste tires in accordance with the purposes of the waste tire program as appropriate to protect human health, safety, and the environment, or to develop markets for waste tires. ***Eligible applicants for these grants who propose demonstration and procurement projects that use crumb rubber derived from recycled waste tires in the construction or rubberizing of athletic field surfaces shall receive first priority consideration for funding.***

(2) An applicant for a grant shall meet the following criteria:

(a) Have the legal authority to construct and operate the project;

(b) Have the ability to construct and operate the project in compliance with this chapter and the grant conditions; and

(c) The applicant and the persons who will be managing the project shall not have received a final judgment or conviction of a state or federal environmental statute or regulation in the five (5) years before submitting the application and shall not have any outstanding violations of state or federal environmental statutes or regulations.

(3) The cabinet shall prioritize the applications based on the following factors:

(a) The project's consistency with the purposes of the waste tire program;

(b) The project's costs and forecasted benefits;

(c) The applicant's credit history; and

(d) The applicant's and key personnel's environmental compliance record.

(4) A person awarded a grant shall:

(a) Construct and operate the project in compliance with this chapter and the grant conditions;

(b) Remain responsible for complying with this chapter and the grant conditions, even if the project is managed by someone else;

(c) Retain ownership of all real and personal property purchased with grant funds unless the cabinet approves their transfer;

(d) Submit to the cabinet monthly an itemized list of expenditures, with copies of invoices or similar documentation;

(e) Submit to the cabinet periodic progress reports; and

(f) Not change the project without the cabinet's approval.

(5) The cabinet may revoke a grant and seek recovery of any grant funds dispersed if the person awarded the grant does not comply with this chapter or the grant conditions.

HCR 63, A CONCURRENT RESOLUTION confirming the appointment of Stephen C. Cawood to the Mine Safety Review Commission.

WHEREAS, KRS 351.1041 requires the Governor to appoint commissioners to the Mine Safety Review Commission; and

WHEREAS, in accordance with KRS 11.160 all Gubernatorial appointments to boards and commissions are subject to confirmation by the Senate and the House of Representatives; and

WHEREAS, on June 5, 2003, by Executive Order 2003-565, the Governor appointed Stephen C. Cawood as a member of the Mine Safety Review Commission; and

WHEREAS, Mr. Stephen C. Cawood meets the requirements of KRS 351.1041 which states that appointed members shall have the qualifications required of Judges of the Court of Appeals, except for residence in a district, and shall be subject to the same standards of conduct made applicable to a part-time judge by the Rules of the Kentucky Supreme Court;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. Consent is given to the appointment of Stephen C. Cawood to the Mine Safety Review Commission for a term to expire on May 23, 2004.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution and notification of its adoption to Mr. Stephen C. Cawood, 344 Tennessee Ave, P.O. Drawer 128, Pineville, KY, 40977-0128.

The Committee on Seniors, Military Affairs, and Public Safety reported **HB 21**, **HB 253**, with Committee Substitute attached thereto, and **HB 273**, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 21, AN ACT relating to the Kentucky Military Museum.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 171.345 is amended to read as follows:

(1) There is established the Kentucky Military Museum which shall be housed in the Old State Arsenal, and shall serve as repository of objects relating to the Commonwealth's military history.

(2) The Kentucky Historical Society and its staff shall maintain the museum, receive, store and catalogue all military historical items, and exercise fiduciary responsibility in the preservation and maintenance of the Old State Arsenal and all objects placed ***or loaned for display*** therein.

(3) The Department for Military Affairs and the adjutant general shall provide the Old State Arsenal as the museum facility, shall maintain and operate the building and grounds, and shall cooperate in contributing items of military history for display within the museum.

(4) There is hereby created the Kentucky Military Museum Committee which shall establish policies and procedures for operation of the Military Museum.

(5) ***(a)*** The committee shall be composed of the ***following:***

1. ***The*** adjutant general***, as an ex officio voting member;***

2. ***The***[~~and~~] director of the Historical Society, ***as an ex officio voting member;***[~~both serving ex officio,~~] and

3. ***Twelve (12)***[~~six (6)~~] members[~~, each selected from lists of three (3) nominees, with three (3) lists submitted from each ex officio member, all~~] appointed by the Governor ***under paragraph (b) of this subsection***[~~to serve for terms of four (4) years. The Governor shall also appoint a chairman of the committee from its membership~~].

(b) ***1.*** ***Members of the Kentucky Military Museum Committee shall be appointed under this paragraph. By December 15, 2005, the adjutant general and the director of the Historical Society shall each submit six (6) lists of three (3) nominees each. By December 31, 2005, the Governor shall appoint the twelve (12) new members by selecting one (1) member from each list as provided for in subparagraph 2. of this paragraph. Every list shall include at least one (1) nominee with military service, and the ex officio members and the Governor shall give due consideration to fair representation on the committee from all branches of the military.***

2. ***The Governor shall appoint the first member from a list submitted by the adjutant general, the second from a list submitted by the director of the Historical Society, and the third from a list submitted by the adjutant general. In this manner, the Governor shall alternate until the twelve (12) new members are appointed. The terms of the twelve (12) new members shall begin January 1, 2006.***

3. ***The terms of the twelve (12) new members shall be staggered by one (1) year upon each successive appointment, the first member appointed to serve a term of one (1) year with each successive member to serve one (1) more year than the prior appointed member's term. This cycle shall begin again for every fifth member appointed to a vacancy so that no member shall be appointed to a term that exceeds four (4) years in length.***

4. ***a.*** ***Except as provided in subdivision b. of this subparagraph, after the initial round of twelve (12) appointments, the terms for all members shall be four (4) years, and the method of appointment shall continue the practice of the Governor alternating between lists of three (3) nominees***

submitted by the adjutant general and the director of the Historical Society. A list of nominees shall be submitted by December 15, and the Governor shall make the appointment by December 31. The member's term shall begin January 1.

b. If any person fails to complete his or her term, whether an initial term beginning January 1, 2006, or later, his or her successor shall be appointed to complete the unexpired term. The Governor shall appoint the successor from a list of three (3) nominees submitted by the same official, the adjutant general or the director of the Historical Society, who submitted the list of three (3) nominees from which the predecessor was appointed. The list shall be submitted to the Governor within fifteen (15) days after the vacancy occurs, and the Governor shall make his or her appointment from the list within fifteen (15) days after the submission.

5. No committee member shall serve more than two (2) consecutive terms. A person appointed to finish an unexpired term exceeding two (2) years shall be deemed to have served a full term. A former member may be reappointed following an absence of one (1) term.

(c) A committee member shall be removed for cause only when nine (9) members of the committee vote for removal. Failure to attend at least half of the committee meetings in a calendar year shall be sufficient cause.

(d) 1. In February of every even-numbered year, the committee shall elect a chair, vice chair, and secretary, each to serve two (2) year terms. In the absence of the chair or in the event of a vacancy in that position, the vice chair shall serve as chair.

2. If a chair, vice chair, or secretary fails to complete his or her two (2) year term, the committee, within thirty (30) days of the vacancy, shall appoint a successor to complete the term.

3. A quorum shall consist of eight (8) or more of the fourteen (14) members. Except as provided in paragraph (c) of this subsection, an affirmative vote of a majority of a quorum shall be necessary for committee action.

(6)[~~(5)~~]The Military Museum and committee shall be attached to the Kentucky Historical Society for administrative and other purposes.

Section 2. This Act takes effect December 1, 2005.

HB 253, AN ACT relating to the Kentucky Emergency Response Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 39E.030 is amended to read as follows:

(1) The commission shall be composed of not more than twenty-five (25) members and shall be chaired by the director of the Division of Emergency Management of the Department of Military Affairs, who shall also be a member. Other members shall include, but not be limited to, *the executive director of the Commission on Fire Protection Personnel Standards and Education or the director's designee,* representatives of the Natural Resources and Environmental Protection Cabinet, the office of the state fire marshal, the Kentucky State Police, the Office of the Attorney General, affected industry, local government, health services, environmental interests, and other persons who have technical expertise in the emergency response field as the Governor deems appropriate.

(2) Members of the commission shall be appointed by the Governor. All appointments shall be for a term of two (2) years. Members shall serve until their successors are appointed and qualified and shall be eligible for reappointment.

(3) The commission shall meet not less than semi-annually, or as convened by the chairman.

(4) If a member misses three (3) consecutive meetings of the full commission or three (3) meetings in two (2) consecutive years, the position shall be declared vacant by the commission. In these cases, the Governor shall make an appointment to fill the unexpired term.

(5) The presence of thirteen (13) members shall constitute a quorum and actions taken at these meetings shall be considered as actions of the full commission.

(6) Members of the commission shall not receive a salary for serving on the commission, but travel and per diem may be paid if funds are appropriated or otherwise made available for these purposes.

The Committee Substitute to **HB 253** is as follows:

HB 253, AN ACT relating to the Kentucky Emergency Response Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 39E.030 is amended to read as follows:

(1) The commission shall be composed of not more than twenty-five (25) members and shall be chaired by the director of the Division of Emergency Management of the Department of Military Affairs, who shall also be a member. Other members shall include, but not be limited to, *the executive director of the Commission on Fire Protection Personnel Standards*

and Education or the executive director's designee, representatives of the Natural Resources and Environmental Protection Cabinet, the office of the state fire marshal, the Kentucky State Police, the Office of the Attorney General, affected industry, local government, health services, environmental interests, and other persons who have technical expertise in the emergency response field as the Governor deems appropriate.

(2) Members of the commission shall be appointed by the Governor. All appointments shall be for a term of two (2) years. Members shall serve until their successors are appointed and qualified and shall be eligible for reappointment.

(3) The commission shall meet not less than semi-annually, or as convened by the chairman.

(4) If a member misses three (3) consecutive meetings of the full commission or three (3) meetings in two (2) consecutive years, the position shall be declared vacant by the commission. In these cases, the Governor shall make an appointment to fill the unexpired term.

(5) The presence of thirteen (13) members shall constitute a quorum and actions taken at these meetings shall be considered as actions of the full commission.

(6) Members of the commission shall not receive a salary for serving on the commission, but travel and per diem may be paid if funds are appropriated or otherwise made available for these purposes.

HB 273, AN ACT relating to a veterans' personal loan program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 40 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Department" means the Department of Veterans' Affairs; and

(b) "Veteran" means a person who served in the active Armed Forces of the United States, including the Coast Guard of the United States, and was released, separated, discharged, or retired therefrom under other than dishonorable conditions.

(2) A veterans' personal loan program trust fund is established to oversee and administer funds under the veterans' personal loan program.

(3) (a) To be eligible for a loan under the veterans' personal loan program, an applicant shall be a resident of, and living in, the Commonwealth on the date of the application.

(b) 1. As used in this paragraph, "qualified" means having met loan conditions established by an administrative regulation promulgated by the department. However, the term of a loan shall not exceed ten (10) years.

2. The department shall cause the veterans' personal loan program trust fund to lend a qualified veteran, deceased veteran's unremarried spouse, or deceased veteran's child not more than ten thousand dollars ($10,000), or a lesser amount established by an administrative regulation promulgated by the department, for:

a. The purchase of a home, business, or business property;

b. The education of a veteran, veteran's spouse, or veteran's child;

c. The payment of medical or funeral expenses; or

d. The consolidation of debt.

3. The department shall cause the veterans' personal loan trust fund to lend a qualified deceased veteran's remarried spouse or parent of a deceased veteran's child not more than ten thousand dollars ($10,000), or a lesser amount established by an administrative regulation promulgated by the department, for the education of the deceased veteran's child.

(c) No person shall receive a loan under this section in an amount that, when added to the balance of the person's existing loan, or loans, under this section, would result in a total indebtedness to the veterans' personal loan program trust fund of more than ten thousand dollars ($10,000), or a lesser amount established by an administrative regulation promulgated by the department.

(4) (a) The veterans' personal loan program trust fund shall:

1. Execute necessary instruments; and

2. Collect principal and interest.

(b) The veterans' personal loan program trust fund may:

1. Compromise indebtedness;

2. Sue and be sued;

3. Post bonds;

4. Write off indebtedness that it considers uncollectible;

5. Exercise the rights of an owner and mortgagee if a loan provided under this section is secured by a real estate mortgage;

6. Charge to a loan applicant loan expenses incurred under this section; and

7. a. Receive state appropriations, gifts, grants, federal funds, and any other funds both public and private.

b. Funds received, which are not necessary for the operation of the veterans' personal loan program trust fund, shall remain with the department to finance other department operations.

(5) The department shall promulgate administrative regulations necessary to carry out the provisions of this section.

The Committee on Local Government reported **HB 109**, with Committee Substitutes and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Reported to the Committee on Rules.

The Committee Substitute No. 2 to **HB 109** is as follows:

HB 109, AN ACT relating to interlocal agreements.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 65.182 TO 65.190 IS CREATED TO READ AS FOLLOWS:

(1) A fiscal court may dissolve a taxing district, excepting volunteer fire departments formed under KRS Chapter 75, if all or a portion of the services have been provided by the entering into a valid interlocal agreement to provide such services. When the district services more than one (1) county, the fiscal court of each county containing a portion of the district must follow the procedures set forth in this section to dissolve the district before the dissolution may take effect.

(2) The fiscal court shall schedule a public hearing on the matter of dissolution and advertise the hearing as provided in KRS 424.130.

(3) At the hearing, the burden of proving that the district should be maintained shall be upon the taxing district's board of directors.

(4) Within sixty (60) days following the hearing, the fiscal court shall set forth its written findings of fact in approving or disapproving the dissolution of the taxing district. If the fiscal court determines to dissolve a district, the governing board of the district must approve of the dissolution of the district and the subscribers of the taxing district's service must approve of the dissolution of the district, in a vote to be held during the next general election. The fiscal court shall determine a method to satisfy any legal obligations of the district which might be affected thereby. Upon satisfaction of its legal obligations, the district shall be legally dissolved, any special ad valorem tax imposed by the district shall be removed from the tax rolls by the county clerk, and any assets of the district shall be assumed by the county.

SECTION 2. A NEW SECTION OF KRS CHAPTER 174 IS CREATED TO READ AS FOLLOWS:

(1) The secretary of the Transportation Cabinet shall cause to be established in the State Treasury a special fund to be known as the intercounty road maintenance fund, to be administered by the secretary. The fund shall be comprised of one-sixth of one percent (1/6%) of all funds arising from the imposition of taxes provided by KRS 138.220, 138.660, and 234.320. Moneys in the fund shall lapse at the end of the fiscal year. Moneys in the fund are hereby appropriated for the purposes provided in this section.

(2) When the secretary determines that a proposed local government plan for the construction, reconstruction, and maintenance of county roads and bridges in counties that have entered into a valid interlocal agreement for the provision of road and bridge construction, reconstruction, and maintenance services across county boundaries would serve the public interest, he or she may use moneys from the intercounty road maintenance fund to aid counties in specific projects of road and bridge construction, reconstruction, and maintenance, provided that counties must provide matching funds for the project. The Transportation Cabinet may grant an amount up to one hundred thousand dollars ($100,000) for any one (1) project, which amount shall not exceed fifty percent (50%) of the cost of the entire project.

(3) In September of each year, the secretary shall determine the amount of funds available for distribution by December 31 of that same year. The secretary may prescribe standards for determining the amounts to be granted for county projects and promulgate any administrative regulations in accordance with the provisions of KRS Chapter 13A as may be necessary to implement the provisions of this section. Funds granted by the cabinet shall be spent by the counties only for road and bridge construction, reconstruction, and maintenance.

Section 3. KRS 65.260 is amended to read as follows:

(1) No agreement made pursuant to KRS 65.210 to 65.300 shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made pursuant to KRS 65.210 to 65.300, that performance may be offered in satisfaction of the obligation or responsibility.

(2) Except as provided in subsections (3)***, (7),*** and ***(8)***~~[(4)]~~ of this section, every agreement made pursuant to KRS 65.210 to

65.300 shall, prior to and as a condition precedent to its entry into force, be submitted to the Attorney General who shall determine whether the agreement is in proper form and compatible with the laws of this state~~[, except for interlocal agreements between cities, counties, charter counties, urban county governments, and sheriffs upon approval of the fiscal court, which shall be submitted to the Department for Local Government]~~. The Attorney General~~[or the Department for Local Government]~~ shall approve any agreement submitted~~[to them]~~ under this subsection unless *he or she finds*~~[they find]~~ that it does not meet the conditions set forth in KRS 65.210 to 65.300. If the agreement does not meet these conditions, the Attorney General~~[or the Department for Local Government]~~ shall detail in writing, addressed to the governing bodies of the public agencies concerned, the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within sixty (60) days of its submission shall constitute approval thereof.

(3) *Except as provided in subsections (7) and (8) of this section, every agreement made between cities, counties, charter counties, urban-county governments, consolidated local governments, sheriffs, and special districts upon approval of the fiscal court and pursuant to KRS 65.210 to 65.300 shall, prior to and as a condition precedent to its entry into force, be submitted to the Department for Local Government which shall determine whether the agreement is in proper form and compatible with the laws of the Commonwealth. The Department for Local Government shall approve any agreement submitted to it under this subsection unless it finds that it does not meet the conditions set forth in KRS 65.210 to 65.300. If the agreement does not meet these conditions, the Department for Local Government shall detail in writing, addressed to the governing bodies of the public agencies concerned, the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement within sixty (60) days of its submission shall constitute approval of the agreement.*

(4) The Department for Local Government shall provide an initial review of every interlocal agreement where one (1) or more of the parties entering into the agreement is a city, county, charter county, urban-county government, consolidated local government, sheriff, or special district, but where not all the parties entering into the agreement are cities, counties, charter counties, urban-county governments, consolidated local governments, sheriffs, special districts or political subdivisions of the Commonwealth of Kentucky.

(5) The Department for Local Government shall maintain a log of all interlocal agreements submitted for review. The log shall note the date of receipt of the agreement, the final status of the review agreement, the nature of the agreement, the duration of the agreement, and the date of the termination of the agreement, if the agreement expires or is terminated.

(6) The Department for Local Government shall create and maintain a document outlining the potential benefits of interlocal agreements and the procedure for their creation. This document may be either published or in an electronic format. The document shall outline explain the Department's procedures for review of interlocal agreements and the time frame for review.

(7) The submission of an interlocal cooperative agreement to the Attorney General or the Department for Local Government as provided in subsection (2) of this section shall not be required for any cooperative agreement which involves only the construction, reconstruction, or maintenance of a municipal road or bridge, provided a written agreement is approved by each of the affected governing bodies.

(8)~~[(4)]~~ Interlocal cooperative agreements between school boards and counties shall be exempt from the provisions of subsection (2) of this section.

Section 4. KRS 147A.021 is amended to read as follows:

(1) The Department for Local Government shall have the following powers and duties:

  (a) To require any reports from local governments that will enable it adequately to provide the technical and advisory assistance authorized by this section.

  (b) To encourage, conduct, or participate in training courses in procedures and practices for the benefit of local officials, and in connection therewith, to cooperate with associations of public officials, business and professional organizations, university faculties, or other specialists.

  (c) To request assistance and information, which shall be provided by all departments, divisions, boards, bureaus, commissions, and other agencies of state government to enable the department to carry out its duties under this section.

  (d) At its discretion, to compile and publish annually a report on local government.

(2) The Department for Local Government shall coordinate for the Governor the state's responsibility for, and shall be responsible for liaison with the appropriate state and federal agencies with respect to, the following programs:

  (a) Demonstration cities and metropolitan development act as amended with the exception of Title I of the Housing and Community Development Act of 1974 as amended through 1981;

  (b) Farmers Home Administration;

  (c) Veterans Administration Act as amended, as it pertains to housing.

(3) The Department for Local Government shall provide technical assistance and information to units of local government, including but not limited to:

(a) Personnel administration;

(b) Ordinances and codes;

(c) Community development;

(d) Appalachian Regional Development Program;

(e) Economic Development Administration Program;

(f) Intergovernmental Personnel Act Program;

(g) Land and Water Conservation Fund Program;

(h) Area Development Fund Program;

(i) Gas System Restoration Project;

(j) Joint Funding Administration Program;

(k) State clearinghouse for A-95 review;

(l) The memorandums of agreement with the area development districts to provide management assistance to local governments;[~~ and~~]

(m) ***The creation of interlocal agreements and an explanation of their benefits; and***

(n) The urban development office.

(4) The Department for Local Government shall exercise all of the functions of the state local finance officer provided in KRS Chapters 66, 68, and 131 relating to the control of funds of counties, cities, and other units of local government.

(5) Upon request of the Administrative Office of the Courts, the Department for Local Government shall evaluate the financial condition of any local unit of government selected to participate in a court facilities construction or renovation project under KRS 26A.160 and shall certify to the Administrative Office of the Courts the local unit of government's ability to participate in the project.

Section 5. In order to promote efficiency and speed aid to counties, an emergency is declared to exist, and this Act takes effect July 1, 2004.

The Committee on Local Government reported **HB 258**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 258, AN ACT relating to the office expenses of county clerks and sheriffs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.345 is amended to read as follows:

(1) The county clerk and sheriff of each county having a population of seventy thousand (70,000) or over shall receive an annual salary pursuant to the salary schedule in KRS 64.5275.

(2) In counties containing a city of the first class, an urban-county form of government, or a consolidated local government, the amount, if any, allowed for the necessary office expenses of each officer shall be approved by the fiscal court in counties containing a city of the first class, by the legislative body in counties containing an urban-county form of government, or by the legislative council in a consolidated local government. This approval shall be signed by the county judge/executive in a county containing a city of the first class, the executive authority in a county having an urban-county form of government, or the mayor in a consolidated local government. Approval by the fiscal court, urban-county legislative body, or legislative council of a consolidated local government under this subsection shall not include oversight of expenditure of the funds. This oversight shall be retained by the Office of the Controller created pursuant to KRS 42.0201. In counties having a consolidated local government or containing a city of the first class, each sheriff's deputy who uses his own automobile in the performance of official duties shall be authorized an allotment for expenses incurred, up to a maximum of three hundred dollars ($300) per month, to be paid out of the fees and commissions of the sheriff's office. In all other counties with a population of seventy thousand (70,000) or more, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. ***Necessary office expenses for sheriffs and county clerks in counties containing a city of the first class, an urban-county form of government, or a consolidated local government, and counties with a population of seventy thousand (70,000) or more shall include discretionary funds to cover additional expenses related to special training and travel related to homeland security emergencies, academy graduations, retirements, state and national sheriff's conventions, and extraordinary office expenses in amounts not to exceed five thousand dollars ($5000) authorized by the approving authority.*** A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the Finance and Administration Cabinet.

(3) Each officer shall, on the first day of each month, send to the Finance and Administration Cabinet a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month as fees or compensation for official duties and shall, with these statements, send to the Finance and Administration Cabinet the amount so collected or received. The Finance and Administration Cabinet may extend the time for filing the statement and

making the payment for a period not exceeding ten (10) days in any month.

(4) The salary of each officer and his deputies and assistants and his office expenses shall be paid semimonthly by the State Treasurer upon the warrant of the Finance and Administration Cabinet made payable to the officer. If seventy-five percent (75%) of the amount paid into the State Treasury in any month by any of such officers is not sufficient to pay the salaries and expenses of his office for that month, the deficit may be made up out of the amount paid in any succeeding month; but in no event shall the amount allowed by the Finance and Administration Cabinet to any officer for salaries and expenses exceed seventy-five percent (75%) of the amount paid to the Finance and Administration Cabinet by the officer during his official term.

(5) In counties containing a city of the first class, an urban-county form of government, or a consolidated local government, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be approved at reasonable amounts upon motion of each officer by the fiscal court in counties containing a city of the first class, by the legislative council in a consolidated local government, and by the legislative body in counties containing an urban-county form of government. This approval shall be signed by the county judge/executive in a county containing a city of the first class, the executive authority in a county having an urban-county form of government, or the mayor in a consolidated local government. Approval by the fiscal court, urban-county legislative body, or legislative council of a consolidated local government under this subsection shall not include oversight of expenditure of the funds. This oversight shall be retained by the Office of the Controller. In all other counties with a population of seventy thousand (70,000) or more, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the Finance and Administration Cabinet.

(6) If a county's population that equaled or exceeded seventy thousand (70,000) is less than seventy thousand (70,000) after the most recent federal decennial census, then the provisions of KRS 64.368 shall apply.

(7) The Office of the Controller shall recognize the amount allowed for necessary office expenses of each officer under subsection (2) of this section as the official budget for the office. The Office of the Controller shall use professional judgment in creating the appropriate fund and account structure to ensure that the offices do not exceed annual approved budgetary amounts or expend more than the resources available for the term of office.

The Committee Amendment No. 1 to **HB 258** is as follows:

HB 258, On Page 2, lines 5 and 6, by deleting "***not to exceed five thousand dollars ($5000)***".

The Committee on Labor and Industry reported **HB 8**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 8, AN ACT relating to mines and minerals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 352.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Abandoned workings" means excavations, either caved or sealed, that are deserted and in which further mining is not intended, or open workings which are ventilated and not inspected regularly;

(b) "Active workings" means all places in a mine that are ventilated and inspected regularly;

(c) "Approved" means that a device, apparatus, equipment, machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department of Mines and Minerals;

(d) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;

(e) "Board" means the Mining Board created in KRS 351.105;

(f) "Commercial mine" means any coal mine from which coal is mined for sale, commercial use, or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;

(g) "Commissioner" means commissioner of the Department of Mines and Minerals;

(h) "Department" means the Department of Mines and Minerals;

(i) "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom, or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;

(j) "Excavations and workings" means the excavated portions of a mine;

(k) "Face equipment" means mobile or portable mining machinery having electric motors or accessory equipment normally installed or operated inby the last open crosscut in any entry or room;

(l) "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;

(m) "Gassy mine." All underground mines shall be classified as gassy or gaseous;

(n) "High voltage" means any voltage of one thousand (1,000) volts or more;

(o) ***"Hazardous voltage" means voltage that exceeds forty (40) volts for low and medium voltage systems or voltage that exceeds one hundred (100) volts for high voltage systems;***

(p) "Imminent danger" means the existence of any condition or practice which could reasonably be expected to cause death or serious physical harm before the condition or practice can be abated;

(q)[~~(p)~~] "Inactive workings" shall include all portions of a mine in which operations have been suspended for an indefinite period, but have not been abandoned;

(r)[~~(q)~~] "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) of oxygen, no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;

(s)[~~(r)~~] "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;

(t)[~~(s)~~] "Low voltage" means up to and including six hundred sixty (660) volts;

(u)[~~(t)~~] "Medium voltage" means voltages greater than six hundred sixty (660) and up to nine hundred ninety-nine (999) volts;

(v)[~~(u)~~] "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with the workings. Workings that are adjacent to each other and under the same management and which are administered as distinct units shall be considered separate mines;

(w)[~~(v)~~] "Mine foreman" means a certified person whom the licensee or superintendent places in charge of the workings of the mine and of persons employed therein;

(x)[~~(w)~~] "Open-pit mine" shall include open excavations and open-cut workings including auger operations and highwall mining systems for the extraction of coal;

(y)[~~(x)~~] "Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;

(z)[~~(y)~~] "Permissible" means that any equipment, device, or explosive that has been approved by the United States Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification;

(aa)[~~(z)~~] "Preshift examination" refers to the examination of an underground mine or part of a mine where miners are scheduled to work or travel, and shall be conducted not more than three (3) hours before any on-coming shift;

(ab)[~~(aa)~~] "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible, or pillared workings;

(ac)[~~(ab)~~] "Shaft" means a vertical opening through the strata that is or may be used, in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;

(ad)[~~(ac)~~] "Slope" means an inclined opening used for the same purpose as a shaft;

(ae)[~~(ad)~~] ***"Suitable" means a design, material, or installation that meets the requirements of its intended use;***

(af) "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines;

(ag)~~(ae)~~ "Supervisory personnel" shall mean a person or persons certified under the provisions of KRS Chapter 351 to assist in the supervision of a portion or the whole of the mine or of the persons employed therein;

(ah)[~~(af)~~] "Tipple or dumping point" means the structure where coal is dumped or unloaded from the mine car into railroad cars, trucks, wagons, or other means of conveyance;

(ai)[~~(ag)~~] "Working face" means any place in a coal mine at which the extraction of coal from its natural deposit in the earth is performed during the mining cycle;

(aj)[~~(ah)~~] "Working place" means the area of a coal mine inby the last open crosscut; and

(ak)[~~(ai)~~] "Working section" means all areas of a coal mine from the loading point to and including the working faces***; and***

(al) "Workmanlike manner" means consistent with standards of safety and established professional practices and methods utilized in the coal industry.

(2) The definitions in KRS 351.010 apply also to this chapter, unless the context requires otherwise.

(3) Except as the context otherwise requires, this chapter applies only to commercial mines as defined in KRS 351.010.

Section 2. KRS 352.220 is amended to read as follows:

(1) The following shall apply to underground installations:

(a)[~~ On all haulage roads, landings, and partings where men are required to regularly work or pass under bare power wires placed less than six and one half (6-1/2) feet above the top of the rail, suitable protection shall be provided. This protection shall consist of channeling the roof, placing boards along the wires and extending below them, or the use of some other approved device that affords protection;~~

~~(b)~~] ***Nonconductive materials shall be used when trailing cables or high voltage feeder cables are suspended***[~~All machine feed wires shall be placed on insulators which shall be so placed as to prevent the wires coming in contact with the coal;~~

~~(c) When the machine or feed wires are carried in the same entry as the trolley wire, they shall be placed on the same side as the trolley wire, between the trolley wire and rib, and shall be protected from contact therewith. Positive feed wires crossing places where persons are required to travel shall be safely guarded or protected from the persons coming in contact therewith, as provided in paragraph (a) of this subsection~~];

(b)[~~(d) All trolley and positive feed wires shall be placed on opposite sides of track from refuge holes or necks of rooms when so ordered by the department, but wires, when protected as provided for in paragraph (a) of this subsection, may be placed across the necks of rooms.~~] ***Suitable circuit interrupting devices***[~~Switches or circuit breakers~~] shall be provided ***for all power circuits and equipment***[~~to control the current~~] at the mine[~~ and all important sections in the mine~~];

(c)[~~(e)~~] All power wires and cables[~~ in hoisting shafts or manway compartments~~] shall be properly insulated[~~, substantially fixed,~~] and well protected;

(d)[~~(f)~~] Ground wires for[~~ low-voltage~~] circuits shall ***have a total cross-sectional area of not less than one-half (1/2) the power conductor***[~~be at least one half (1/2) as large as the circuit wires~~];

(e)[~~(g)~~] Extra length or long trailing cables shall be spread out in long open loops ***or in a figure-eight configuration*** on clean, well rock-dusted floor where the cable can be protected against mechanical injury, but cables[~~ in~~] suspended ***in*** long ***open*** loops shall be acceptable;

(f)[~~(h)~~] One (1) temporary splice may be made in any trailing cable. No temporary splice shall be made in a trailing cable within twenty-five (25) feet of the machine except cable reel equipment.[~~ Temporary~~] Splices in trailing cables shall be made in a workmanlike manner and shall be mechanically strong and well insulated.[~~ Trailing~~] Cables[~~ or hand cables which have exposed wires or which have splices that heat and spark under load~~] shall[~~ not~~] be ***properly sized and maintained***[~~used~~];

(g)[~~(i)~~] Single conductor trailing cables shall not be used on cutting machines;

(h)[~~(j)~~] Three-phase alternating-current circuits used underground shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the power center, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all the electrical equipment supplied power from that circuit;

(i)[~~(k)~~] The frames of hand-held electrically driven tools[~~ and portable sump pumps~~] shall be properly grounded ***or double-insulated by design.***[~~, and~~] The ***frames of all pumps shall be properly grounded.*** Hand-held tools and ***all***[~~portable~~] pumps shall be properly protected by ***suitable*** fuses, circuit breakers, or other no less effective devices to provide the minimum overload and shortcircuit protection required by the department;

[~~(l) All pump frames and all pipe lines shall be grounded to the rail or the grounding system at two hundred (200) foot intervals, except nonmetallic pipes or pipes using insulated type couplings or pipes installed remotely from track or power systems;~~

~~(m) Where track is used for the return circuit, at least one (1) side shall be bonded to the full length of the trolley wire installation. Cross bonds shall be installed not to exceed two hundred (200) foot intervals along the track;~~]

(j)[~~(n)~~] All underground high-voltage transmission cables shall be installed only in regularly inspected air courses and haulageways, and shall be covered, buried, or placed so as to afford protection against damage, guarded where men regularly work ***under*** or pass under them unless they are six and one-half (6-1/2) feet or more above the floor or rail, securely anchored, properly insulated, and guarded at ends, and covered, insulated, or placed to prevent contact with[~~ trolley wires and~~] other[~~ low voltage~~] circuits. Underground high-voltage cables used in resistance grounded systems shall be equipped with metallic shields around each power conductor, with one (1) or more ground conductors having a total cross-sectional area of not less than one-half (1/2) the power conductor, and with an insulated internal ***conductor not smaller than No. 10 (AWG)*** or ***an insulated*** external conductor not smaller than No. 8 (AWG) for the ground continuity check circuit***. All cables shall be suitable for the current and voltage. Splices made in cables shall provide continuity of all components***;

(k)[~~(o)~~] ***Power circuits***[~~High voltage cables~~] shall have ***suitable*** disconnecting ***devices and short-circuit***[~~switches,~~

~~overload~~] protective devices[~~, and lightning arresters~~] at or near the ***supply***[~~outside~~] end of the ***circuit. Disconnecting devices shall be provided at the beginning of all branch circuits***[~~cable~~];

(l)[~~(p)~~] ***Underground transformer stations, battery charging stations, substations, rectifiers, and water pumps shall be housed in noncombustible structures or areas or equipped with a suitable fire suppression system. When a noncombustible structure or area is used, the installation shall be ventilated with intake air that is coursed into a return air course or to the surface and that is not used to ventilate working places, or ventilated with intake air that is monitored for carbon monoxide or smoke by an atmospheric monitoring system (AMS) installed and operated in a suitable manner. Monitoring of intake air ventilating battery charging stations shall be done with sensors not affected by hydrogen or ventilated with intake air and equipped with sensors to monitor for heat, carbon monoxide, or smoke. The sensors shall deenergize power to the installation, activate a visual and audible alarm located outside of and on the intake side of the enclosure, and activate doors that will automatically close when the temperature in the noncombustible structure reaches one hundred and sixty-five (165) degrees Fahrenheit, the carbon monoxide concentration reaches ten (10) parts per million above the ambient level for the area, or the optical density of smoke reaches 0.022 per meter. At least every thirty (30) days, sensors installed to monitor for carbon monoxide shall be calibrated with a known concentration of carbon monoxide and air sufficient to activate the closing door, or each smoke sensor shall be tested to determine that it functions correctly. When a fire suppression system is used, the installation shall be ventilated with intake air that is coursed into a return air course or to the surface and that is not used to ventilate working places, or ventilated with intake air that is monitored for carbon monoxide or smoke by an atmospheric monitoring system (AMS) installed and operated in a suitable manner. Monitoring of intake air ventilating battery charging stations shall be done with sensors not affected by hydrogen. This paragraph does not apply to rectifiers and power centers with transformers that are either dry-type or contain nonflammable liquid, if they are located at or near the section and are moved as the working section advances or retreats; submersible pumps, permissible pumps, and associated permissible switchgear; pumps located on or near the section that are moved as the working section advances or retreats; or small portable pumps***[~~Permanent battery charging stations, permanent pump installations, motor generator sets, rotary converters, and oil filled transformers and switches used underground shall be housed in fireproof enclosures ventilated by a separate split of air direct to the main return~~]. Underground stations containing transformers or circuit breakers filled with ***flammable***[~~inflammable~~] oil shall be provided with door sills or their equivalent, which will confine the oil if leakage or rupture ***occurs***[~~occur~~], and shall be of fireproof construction. Underground transformers purchased after June 16, 1972, shall be air cooled or cooled with ***nonflammable***[~~noninflammable~~] liquid or inert gas.[~~ Sectional type~~] Portable power centers, portable transformers, and distribution centers which are essentially fireproof are not required to be placed on separate splits of air but shall be stationed in well ventilated places ***outby the***[~~out by~~] last open crosscuts;

(m)[~~(q)~~] ***Electrically powered***[~~All mine~~] locomotives shall be ***provided with suitable electrical protective devices***[~~fused or otherwise protected at the switch or at the nip~~];

(n)[~~(r)~~] Suitable firefighting equipment shall be located at strategic points along the belt conveyor, and proper fire extinguishers shall be provided at the transfer points. The commissioner may prescribe any other safety measures for the prevention and combating of mine fires as they pertain to conveyor belts. Only approved flame resistant belting shall be taken into and used inside any mine, and all underground belt conveyors shall be provided with slippage and sequence switches and with ***start and stop*** controls at ***intervals not to exceed one thousand (1000) feet. The controls shall be properly installed and positioned so as to be readily accessible***[~~locations recommended by the mine inspector. This does not prevent the use of belting which is being used on June 16, 1972, but the use of rubber belting shall be under such conditions as may be prescribed by the commissioner~~];

(o)[~~(s)~~] ***Communication wires and cables***[~~Telephone lines~~] shall be ***adequately insulated and fully protected***[~~provided with lightning arresters where the lines enter the mine and at the boxes on the outside~~];

(p)[~~(t)~~] Telephone lines[~~ crossing trolley wires~~] shall be ***provided with lightening arresters where the lines enter the mine and at the buildings on the surface***[~~carefully guarded in a nonconductive conduit~~];

(q)[~~(u)~~] Insulating mats ***of suitable size*** shall be placed in front of ***disconnecting devices***[~~switchboards, beside stationary motors, in decks of locomotives,~~] and all electrical installations where required;

(r)[~~(v)~~] Ground wires in trailing cables shall be tested ***weekly***[~~periodically~~] for open circuit and high resistance ***capable of allowing a hazardous voltage to appear on the frame of the connected equipment during a ground-fault condition***[~~joints~~];

(s)[~~(w)~~] Power circuits in tipples, buildings, cleaning plants, etc., and all ***underground***[~~inside~~] electrical circuits shall be deenergized when not in use over a long period;[~~ and~~]

(t)[~~(x)~~] ***All underground power circuits and electrical equipment shall be deenergized before work is done on the circuits and equipment, except when necessary for troubleshooting or testing. A suitable disconnect providing visible evidence that the power is disconnected shall be locked open and a tag shall be posted by the individuals performing the work. Locks and tags shall be removed only by the persons who installed them or, if those persons are off the mine premises, by a person authorized by the operator;***

(u) Where electric circuits cross over or pass under belt conveyors the wiring shall be ***suitably*** protected***; and***

(v) Switch boxes, contactors, controllers, and all other similar devices shall be kept free of accumulations of combustible dust[~~by conduit~~].

(2) The following shall apply to *trolley wires and trolley feeder wires:*

(a) On all haulage roads, landings, and partings where persons are required to regularly work or pass under bare power wires placed less than six and one-half (6 1/2) feet above the top of the rail, suitable protection shall be provided. This protection shall consist of channeling the roof, placing boards along the wires and extending below them, or the use of some other approved device that affords protection;

(b) All machine feed conductors shall be placed on suitable insulators which shall be placed so as to prevent the conductors from coming in contact with combustible or conductive materials;

(c) When the machine or feed wires are carried in the same entry as the trolley wire, they shall be placed on the same side as the trolley wire, between the trolley wire and rib, and shall be protected from contact therewith. Positive feed wires crossing places where persons are required to travel shall be safely guarded or protected against persons coming in contact with them, as required by paragraph (a) of this subsection;

(d) All trolley and positive feed wires shall be placed on opposite sides of the track from refuge holes or necks of rooms when so ordered by the department; however, wires that are protected as required by paragraph (a) of this subsection may be placed across the necks of rooms. Switches or circuit breakers shall be provided to control the current at the mine and all important sections in the mine;

(e) Where track is used for the return circuit, at least one (1) side shall be bonded to the full length of the trolley wire installation. Cross-bonds shall be installed not to exceed two hundred (200) foot intervals along the track;

(f) All mine locomotives shall be fused or otherwise protected at the switch or at the nip; and

(g) Telephone lines crossing trolley wires shall be carefully guarded in a nonconductive conduit.

(3) The following shall apply to surface installations:

(a) High-voltage lines shall be at least twenty (20) feet above the ground where there is a possibility of contact by traffic passing underneath;

(b)[~~ Protective barriers shall be so constructed between high-voltage wires and telephone wires, trolley circuits, and any other similar conveyor wires or circuits as to prevent their failure by the falling of the high tension lines across the other circuits, wires, or conveyors;~~

~~(c) On four (4) wire circuits, the fourth or neutral wire terminating at transformers, or elsewhere, shall be of substantial construction to minimize any possibility of the wire being severed or damaged mechanically;~~

~~(d)~~] On *electrical*[~~low-voltage~~] circuits, wires *and cables* shall be supported on insulators except when cables[~~ made for use without insulators~~], which are of a design that can be safely used without insulators, are used;

(c)[~~(e)~~] Lightning arresters shall be installed on all *ungrounded, exposed power conductors and telephone wires*[~~circuits~~] entering a mine, regardless of voltage. Overload protection and disconnect switches of *suitable* sizes and ratings approved by the department shall also be provided;

(d)[~~(f)~~] Every metallic building in which electricity is used or connected with any circuit shall be effectively grounded;

(e)[~~(g)~~] All transformer tanks shall be effectively grounded;

(f)[~~(h)~~] Switch boxes, contactors, controllers, and all other similar devices shall be kept free of[~~ dust~~] accumulations *of combustible dust that create a fire hazard*;[~~ and~~]

(g)[~~(i)~~] Surface transformer stations shall be housed or fenced in when lower than fifteen (15) feet above the earth, and the fences shall be a minimum of six (6) feet in height*; and*

(h) All power circuits and electrical equipment located on the surface shall be deenergized before work is done on those circuits and equipment except when necessary for troubleshooting or testing. On all high voltage circuits and on low and medium voltage circuits supplying power to mobile or portable loads, a suitable disconnect providing visible evidence that the power is disconnected shall be locked open and a tag shall be posted by the individuals performing the work. On low and medium voltage circuits supplying power to surface stationary equipment, a suitable disconnecting device shall be locked open and suitable warning tags shall be posted by the individuals performing the work. When disconnects for stationary low and medium voltage equipment that do not provide visual evidence that the power is disconnected are used, an adequately rated voltage detector shall be used to test each phase conductor or circuit part to verify that they are deenergized before any work is performed. Confirmation that the voltage detector is operating satisfactorily shall be made before each test. Locks and tags shall be removed only by the persons who installed them or, if those persons are off mine premises, by a person authorized by the operator.

(4)[~~(3)~~] (a) Notwithstanding any provisions of subsections (1)*,*[~~ or~~] (2)*, or (3)* of this section, the department may authorize the construction, maintenance, operation, or conducting of any activity regulated by this section, to be constructed, maintained, operated, or conducted in a different manner than specified in any provision of subsections (1)*,*[~~ or~~] (2)*, or (3)* of this section, when scientific or engineering information is made available to the department substantially indicating that the different manner would afford equal or greater protection and safety

than the manner required in subsections (1)***,***[~~ or~~] (2)***, or (3)*** of this section; and

(b) The department may prescribe administrative regulations with respect to the aboveground or underground installations in connection with any mine operation when information is made available indicating that regulation is reasonably necessary to prevent injury to, or loss of, life and property.

Section 3. KRS 352.230 is amended to read as follows:

(1) All electrical equipment ***and all other electric-driven equipment, except intrinsically safe equipment which is taken into or used inby the last open crosscut and in return airways***[~~purchased for face use~~] in underground mines***,*** shall be[~~ of the~~] permissible[~~ type~~]. The commissioner or his authorized representative shall reject any modification to mining equipment which would endanger the health or safety of employees.

(2)[~~No person shall be placed in charge of electrical face equipment in any mine unless he is a qualified person, capable of determining the safety of the roof, face, and ribs of the working places and detecting the presence of explosive gas. Operators of electrical face equipment shall undergo an examination to determine their fitness to detect explosive gas before they are permitted to have charge of electric face equipment and shall have a minimum of forty-five (45) days of actual mining experience. Safety committeemen, shotfirers, and others whose duty may require them to make examination for gas shall undergo and pass an examination or possess a mine foreman's certificate before using a flame safety lamp underground. The examination shall be given by the mine inspector, blank forms therefor to be furnished by the department. A copy shall be retained on file at the mine office and the original shall be sent to the department fully made out and signed by the applicant and approved by the mine inspector.~~

~~(3) No electric face equipment shall be brought inby the last breakthrough next to the working face until the equipment operator has made an inspection for explosive gas using a flame safety lamp or other approved device or instrument in the place where the equipment is to work, unless the examination is then made by some other competent person authorized and appointed for that purpose by the mine foreman. If any explosive gas is found in the place, the electric equipment shall not be taken in until the gas is removed.~~

~~(4) While the electric equipment is operating at the face, an examination for gas shall be made at not more than twenty (20) minute intervals. If gas is found in excess of one percent (1%), the power shall be disconnected from the equipment and left disconnected until the gas is removed and the place reported safe by a certified official.~~

~~(5)~~] ***All*** headlights shall be ***properly*** installed and maintained in a ***workmanlike manner***[~~permissible~~] and working order on all mobile and face equipment at all times the equipment is in operation.

(3)[~~(6)~~] Headlights shall be mounted to provide maximum illumination where it will be most effective and shall be protected from damage by guarding or locations.

(4)[~~(7)~~] At all times when mining equipment is being used, it shall be maintained in safe working order. ***Electrical equipment and circuits shall be examined and tested in a suitable manner by certified electricians to ensure safe working order.***

(5) Combustible materials, grease, lubricants, or flammable liquids shall not be allowed to accumulate where they can create a fire hazard.

(6) All electrical equipment utilized in intake airways outby the last open crosscut shall be maintained in safe operating condition and in accordance with the manufacturer's instructions.

SECTION 4. A NEW SECTION OF KRS CHAPTER 352 IS CREATED TO READ AS FOLLOWS:

(1) No person shall be placed in charge of electrical face equipment in any mine unless he is a qualified person capable of determining the safety of the roof, face, and ribs of the working places and detecting the presence of explosive gas. Operators of electrical face equipment shall undergo an examination to determine their fitness to detect explosive gas and shall have a minimum of forty-five (45) days of actual mining experience before they are permitted to have charge of electric face equipment. Safety committeemen, shotfirers, and others whose duty may require them to conduct an inspection for gas shall undergo and pass an examination or possess a mine foreman's certificate before using an approved multi-gas detection device underground. The examination shall be given by the mine inspector. Blank forms for the examination shall be furnished by the department. A copy shall be retained on file at the mine office, and the original shall be sent to the department completed in full, signed by the applicant, and approved by the mine inspector.

(2) No electric face equipment shall be brought inby the last breakthrough next to the working face until the equipment operator has made an inspection for explosive gas using an approved gas detection device or instrument in the place where the equipment is to work, unless the inspection is then made by some other competent person authorized and appointed for that purpose by the mine foreman. If any explosive gas in excess of one percent (1%) is found in that area, the electrical equipment shall not be taken in until the gas is removed.

(3) While the electric equipment is operating at the face, an examination for gas shall be made at not more than twenty (20) minute intervals. If methane gas is found in excess of one percent (1%) at any time, the power shall be deenergized from the equipment and left deenergized until the gas is reduced to less than one percent (1%) and the place determined safe by a foreman.

The Committee Substitute to **HB 8** is as follows:

HB 8, AN ACT relating to mines and minerals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 352.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Abandoned workings" means excavations, either caved or sealed, that are deserted and in which further mining is not intended, or open workings which are ventilated and not inspected regularly;

(b) "Active workings" means all places in a mine that are ventilated and inspected regularly;

(c) "Approved" means that a device, apparatus, equipment, machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department of Mines and Minerals;

(d) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;

(e) "Board" means the Mining Board created in KRS 351.105;

(f) "Commercial mine" means any coal mine from which coal is mined for sale, commercial use, or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;

(g) "Commissioner" means commissioner of the Department of Mines and Minerals;

(h) "Department" means the Department of Mines and Minerals;

(i) "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom, or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;

(j) "Excavations and workings" means the excavated portions of a mine;

(k) "Face equipment" means mobile or portable mining machinery having electric motors or accessory equipment normally installed or operated inby the last open crosscut in any entry or room;

(l) "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;

(m) "Gassy mine." All underground mines shall be classified as gassy or gaseous;

(n) "High voltage" means any voltage of one thousand (1,000) volts or more;

(o) ***"Hazardous voltage" means voltage that exceeds forty (40) volts for low and medium voltage systems or voltage that exceeds one hundred (100) volts for high voltage systems;***

(p) "Imminent danger" means the existence of any condition or practice which could reasonably be expected to cause death or serious physical harm before the condition or practice can be abated;

(q)[~~(p)~~] "Inactive workings" shall include all portions of a mine in which operations have been suspended for an indefinite period, but have not been abandoned;

(r)[~~(q)~~] "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) of oxygen, no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;

(s)[~~(r)~~] "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;

(t)[~~(s)~~] "Low voltage" means up to and including six hundred sixty (660) volts;

(u)[~~(t)~~] "Medium voltage" means voltages greater than six hundred sixty (660) and up to nine hundred ninety-nine (999) volts;

(v)[~~(u)~~] "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with the workings. Workings that are adjacent to each other and under the same management and which are administered as distinct units shall be considered separate mines;

(w)[~~(v)~~] "Mine foreman" means a certified person whom the licensee or superintendent places in charge of the workings of the mine and of persons employed therein;

(x)[~~(w)~~] "Open-pit mine" shall include open excavations and open-cut workings including auger operations and highwall mining systems for the extraction of coal;

(y)[~~(x)~~] "Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;

(z)[~~(y)~~] "Permissible" means that any equipment, device, or explosive that has been approved by the United States Bureau

of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification;

(aa)[~~(z)~~] "Preshift examination" refers to the examination of an underground mine or part of a mine where miners are scheduled to work or travel, and shall be conducted not more than three (3) hours before any on-coming shift;

(ab)[~~(aa)~~] "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible, or pillared workings;

(ac)[~~(ab)~~] "Shaft" means a vertical opening through the strata that is or may be used, in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;

(ad)[~~(ac)~~] "Slope" means an inclined opening used for the same purpose as a shaft;

(ae)[~~(ad)~~] *"Suitable" means a design, material, or installation that meets the requirements of its intended use;*

(af) "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines;

(ag)~~(ae)~~ "Supervisory personnel" shall mean a person or persons certified under the provisions of KRS Chapter 351 to assist in the supervision of a portion or the whole of the mine or of the persons employed therein;

(ah)[~~(af)~~] "Tipple or dumping point" means the structure where coal is dumped or unloaded from the mine car into railroad cars, trucks, wagons, or other means of conveyance;

(ai)[~~(ag)~~] "Working face" means any place in a coal mine at which the extraction of coal from its natural deposit in the earth is performed during the mining cycle;

(aj)[~~(ah)~~] "Working place" means the area of a coal mine inby the last open crosscut; and

(ak)[~~(ai)~~] "Working section" means all areas of a coal mine from the loading point to and including the working faces*; and*

(al) "Workmanlike manner" means consistent with standards of safety and established professional practices and methods utilized in the coal industry.

(2) The definitions in KRS 351.010 apply also to this chapter, unless the context requires otherwise.

(3) Except as the context otherwise requires, this chapter applies only to commercial mines as defined in KRS 351.010 *and shall not apply to electrical facilities that are owned, operated, or otherwise controlled by a retail electric supplier or generation and transmission cooperative as defined in KRS 278.010 or organized under KRS Chapter 279 and that are covered by the National Electric Safety Code or other applicable safety codes*.

Section 2. KRS 352.220 is amended to read as follows:

(1) The following shall apply to underground installations:

(a)[~~On all haulage roads, landings, and partings where men are required to regularly work or pass under bare power wires placed less than six and one-half (6 1/2) feet above the top of the rail, suitable protection shall be provided. This protection shall consist of channeling the roof, placing boards along the wires and extending below them, or the use of some other approved device that affords protection;~~

~~(b)~~] *Nonconductive materials shall be used when trailing cables or high voltage feeder cables are suspended*[~~All machine feed wires shall be placed on insulators which shall be so placed as to prevent the wires coming in contact with the coal;~~

~~(c) When the machine or feed wires are carried in the same entry as the trolley wire, they shall be placed on the same side as the trolley wire, between the trolley wire and rib, and shall be protected from contact therewith. Positive feed wires crossing places where persons are required to travel shall be safely guarded or protected from the persons coming in contact therewith, as provided in paragraph (a) of this subsection~~];

(b)[~~(d)~~] [~~All trolley and positive feed wires shall be placed on opposite sides of track from refuge holes or necks of rooms when so ordered by the department, but wires, when protected as provided for in paragraph (a) of this subsection, may be placed across the necks of rooms.~~]*Suitable circuit interrupting devices*[~~Switches or circuit breakers~~] shall be provided *for all power circuits and equipment*[~~to control the current~~] at the mine[~~ and all important sections in the mine~~];

(c)[~~(e)~~] All power wires and cables[~~ in hoisting shafts or manway compartments~~] shall be properly insulated[~~, substantially fixed,~~] and well protected;

(d)[~~(f)~~] Ground wires for[~~ low voltage~~] circuits shall *have a total cross-sectional area of not less than one-half (1/2) the power conductor*[~~be at least one-half (1/2) as large as the circuit wires~~];

(e)[~~(g)~~] Extra length or long trailing cables shall be spread out in long open loops *or in a figure-eight configuration* on clean, well rock-dusted floor where the cable can be protected against mechanical injury, but cables[~~ in~~] suspended *in* long *open* loops shall be acceptable;

(f)[~~(h)~~] One (1) temporary splice may be made in any trailing cable. No temporary splice shall be made in a trailing cable within twenty-five (25) feet of the machine except cable reel equipment.[~~ Temporary~~] Splices in trailing cables

shall be made in a workmanlike manner and shall be mechanically strong and well insulated.[~~ Trailing~~] Cables[~~ or hand cables which have exposed wires or which have splices that heat and spark under load~~] shall[~~ not~~] be *properly sized and maintained*[~~used~~];

(g)[~~(i)~~] Single conductor trailing cables shall not be used on cutting machines;

(h)[~~(j)~~] Three-phase alternating-current circuits used underground shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the power center, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all the electrical equipment supplied power from that circuit;

(i)[~~(k)~~] The frames of hand-held electrically driven tools[~~ and portable sump pumps~~] shall be properly grounded *or double-insulated by design.*[~~, and~~] The *frames of all pumps shall be properly grounded.* Hand-held tools and *all*[~~portable~~] pumps shall be properly protected by *suitable* fuses, circuit breakers, or other no less effective devices to provide the minimum overload and shortcircuit protection required by the department;

[~~(l) All pump frames and all pipe lines shall be grounded to the rail or the grounding system at two hundred (200) foot intervals, except nonmetallic pipes or pipes using insulated type couplings or pipes installed remotely from track or power systems;~~

~~(m) Where track is used for the return circuit, at least one (1) side shall be bonded to the full length of the trolley wire installation. Cross-bonds shall be installed not to exceed two hundred (200) foot intervals along the track;~~]

(j)[~~(n)~~] All underground high-voltage transmission cables shall be installed only in regularly inspected air courses and haulageways, and shall be covered, buried, or placed so as to afford protection against damage, guarded where men regularly work *under* or pass under them unless they are six and one-half (6-1/2) feet or more above the floor or rail, securely anchored, properly insulated, and guarded at ends, and covered, insulated, or placed to prevent contact with[~~ trolley wires and~~] other[~~ low-voltage~~] circuits. Underground high-voltage cables used in resistance grounded systems shall be equipped with metallic shields around each power conductor, with one (1) or more ground conductors having a total cross-sectional area of not less than one-half (1/2) the power conductor, and with an insulated internal *conductor not smaller than No. 10 (AWG)* or *an insulated* external conductor not smaller than No. 8 (AWG) for the ground continuity check circuit*. All cables shall be suitable for the current and voltage. Splices made in cables shall provide continuity of all components*;

(k)[~~(o)~~] *Power circuits*[~~High voltage cables~~] shall have *suitable* disconnecting *devices and short-circuit*[~~switches, overload~~] protective devices[~~, and lightning arresters~~] at or near the *supply*[~~outside~~] end of the *circuit. Disconnecting devices shall be provided at the beginning of all branch circuits*[~~cable~~];

(l)[~~(p)~~] *Underground transformer stations, battery charging stations, substations, rectifiers, and water pumps shall be housed in noncombustible structures or areas or be equipped with a fire suppression system.*

1. When a noncombustible structure or area is used, these installations shall be:

a. Ventilated with intake air that is coursed into a return air course or to the surface and that is not used to ventilate working places;

b. Ventilated with intake air that is monitored for carbon monoxide or smoke by an atmospheric monitoring system installed and operated in a suitable manner; or

c. Ventilated with intake air and equipped with sensors to monitor for heat, carbon monoxide, or smoke.

2. The sensors used for monitoring shall de-energize power to the installation, activate a visual and audible alarm located outside of and on the intake side of the enclosure, and activate doors that will automatically close when any of the following occurs:

a. The temperature in noncombustible structure reaches one hundred sixty-five (165) degrees Fahrenheit;

b. The carbon monoxide concentration reaches ten (10) parts per million above the ambient level for the area; or

c. The optical density of smoke reaches 0.022 per meter.

3. At least every thirty (30) days, sensors installed to monitor for carbon monoxide shall be calibrated with a known concentration of carbon monoxide and air sufficient to activate the closing door, or each smoke sensor shall be tested to determine that it functions correctly.

4. When a fire suppression system is used, the installation shall be:

a. Ventilated with intake air that is coursed into a return air course or to the surface and that is not used to ventilate working places; or

b. Ventilated with intake air that is monitored for carbon monoxide or smoke by an atmospheric monitoring system installed and operated in a suitable manner.

5. All monitoring systems used to monitor intake air ventilating battery charging stations under

subparagraphs 1. and 4. of this paragraph shall be done with sensors not affected by hydrogen.

6. This paragraph does not apply to:

a. Rectifiers and power centers with transformers that either are dry-type or contain nonflammable liquid, if they are located at or near the section and are moved as the working section advances or retreats;

b. Submersible pumps;

c. Permissible pumps, and associated permissible switchgear;

d. Pumps located on or near the section that are moved as the working section advances or retreats; or

e. Small portable pumps[~~Permanent battery charging stations, permanent pump installations, motor generator sets, rotary converters, and oil filled transformers and switches used underground shall be housed in fireproof enclosures ventilated by a separate split of air direct to the main return~~].

(m) Underground stations containing transformers or circuit breakers filled with ***flammable***[~~inflammable~~] oil shall be provided with door sills or their equivalent, which will confine the oil if leakage or rupture ***occurs***[~~occur~~], and shall be of fireproof construction. Underground transformers purchased after June 16, 1972, shall be air cooled or cooled with ***nonflammable***[~~noninflammable~~] liquid or inert gas.[~~ Sectional type~~] Portable power centers, portable transformers, and distribution centers which are essentially fireproof are not required to be placed on separate splits of air but shall be stationed in well ventilated places ***outby the***[~~out by~~] last open crosscuts;

(n)[~~(q)~~] ***Electrically powered***[~~All mine~~] locomotives shall be ***provided with suitable electrical protective devices***[~~fused or otherwise protected at the switch or at the nip~~];

(o)[~~(r)~~] Suitable firefighting equipment shall be located at strategic points along the belt conveyor, and proper fire extinguishers shall be provided at the transfer points. The commissioner may prescribe any other safety measures for the prevention and combating of mine fires as they pertain to conveyor belts. Only approved flame resistant belting shall be taken into and used inside any mine, and all underground belt conveyors shall be provided with slippage and sequence switches and with ***start and stop*** controls at ***intervals not to exceed one thousand (1000) feet. The controls shall be properly installed and positioned so as to be readily accessible***[~~locations recommended by the mine inspector. This does not prevent the use of belting which is being used on June 16, 1972, but the use of rubber belting shall be under such conditions as may be prescribed by the commissioner~~];

(p)[~~(s)~~] ***Communication wires and cables***[~~Telephone lines~~] shall be ***adequately insulated and fully protected***[~~provided with lightning arresters where the lines enter the mine and at the boxes on the outside~~];

(q)[~~(t)~~] Telephone lines[~~ crossing trolley wires~~] shall be ***provided with lightening arresters where the lines enter the mine and at the buildings on the surface***[~~carefully guarded in a nonconductive conduit~~];

(r)[~~(u)~~] Insulating mats ***of suitable size*** shall be placed in front of ***disconnecting devices***[~~switchboards, beside stationary motors, in decks of locomotives,~~] and all electrical installations where required;

(s)[~~(v)~~] Ground wires in trailing cables shall be tested ***weekly***[~~periodically~~] for open circuit and high resistance ***capable of allowing a hazardous voltage to appear on the frame of the connected equipment during a ground-fault condition***[~~joints~~];

(t)[~~(w)~~] Power circuits in tipples, buildings, cleaning plants, etc., and all ***underground***[~~inside~~] electrical circuits shall be ***de-energized***[~~deenergized~~] when not in use over a long period;[~~ and~~]

(u)[~~(x)~~] ***All underground power circuits and electrical equipment shall be de-energized before work is done on the circuits and equipment, except when necessary for troubleshooting or testing. A suitable disconnect providing visible evidence that the power is disconnected shall be locked open and a tag shall be posted by the individuals performing the work. Locks and tags shall be removed only by the persons who installed them or, if those persons are unavailable, by a person authorized by the operator;***

(v) Where electric circuits cross over or pass under belt conveyors the wiring shall be ***suitably*** protected***; and***

(w) Switch boxes, contactors, controllers, and all other similar devices shall be kept free of accumulations of combustible dust[~~by conduit~~].

(2) The following shall apply to ***trolley wires and trolley feeder wires:***

(a) On all haulage roads, landings, and partings where persons are required to regularly work or pass under bare power wires placed less than six and one-half (6 1/2) feet above the top of the rail, suitable protection shall be provided. This protection shall consist of channeling the roof, placing boards along the wires and extending below them, or the use of some other approved device that affords protection;

(b) All machine feed conductors shall be placed on suitable insulators which shall be placed so as to prevent the conductors from coming in contact with combustible or conductive materials;

(c) When the machine or feed wires are carried in the same entry as the trolley wire, they shall be placed on the same side as the trolley wire, between the trolley wire and rib, and shall be protected from contact therewith. Positive feed wires crossing places where persons are required to travel shall be safely guarded or protected

against persons coming in contact with them, as required by paragraph (a) of this subsection;

(d) All trolley and positive feed wires shall be placed on opposite sides of the track from refuge holes or necks of rooms when so ordered by the department; however, wires that are protected as required by paragraph (a) of this subsection may be placed across the necks of rooms. Switches or circuit breakers shall be provided to control the current at the mine and all important sections in the mine;

(e) Where track is used for the return circuit, at least one (1) side shall be bonded to the full length of the trolley wire installation. Cross-bonds shall be installed not to exceed two hundred (200) foot intervals along the track;

(f) All mine locomotives shall be fused or otherwise protected at the switch or at the nip; and

(g) Telephone lines crossing trolley wires shall be carefully guarded in a nonconductive conduit.

(3) The following shall apply to surface installations:

(a) High-voltage lines shall be at least twenty (20) feet above the ground where there is a possibility of contact by traffic passing underneath;

(b)[~~ Protective barriers shall be so constructed between high-voltage wires and telephone wires, trolley circuits, and any other similar conveyor wires or circuits as to prevent their failure by the falling of the high tension lines across the other circuits, wires, or conveyors;~~

~~(c) On four (4) wire circuits, the fourth or neutral wire terminating at transformers, or elsewhere, shall be of substantial construction to minimize any possibility of the wire being severed or damaged mechanically;~~

~~(d)~~] On ***electrical***[~~low-voltage~~] circuits, wires ***and cables*** shall be supported on insulators except when cables[~~ made for use without insulators~~], which are of a design that can be safely used without insulators, are used;

(c)[~~(e)~~] Lightning arresters shall be installed on all ***ungrounded, exposed power conductors and telephone wires***[~~circuits~~] entering a mine, regardless of voltage. Overload protection and disconnect switches of ***suitable*** sizes and ratings approved by the department shall also be provided;

(d)[~~(f)~~] Every metallic building in which electricity is used or connected with any circuit shall be effectively grounded;

(e)[~~(g)~~] All transformer tanks shall be effectively grounded;

(f)[~~(h)~~] Switch boxes, contactors, controllers, and all other similar devices shall be kept free of[~~ dust~~] accumulations ***of combustible dust that create a fire hazard***; and

(g)[~~(i)~~] Surface transformer stations shall be housed or fenced in when lower than fifteen (15) feet above the earth, and the fences shall be a minimum of six (6) feet in height***; and***

(h) All power circuits and electrical equipment located on the surface shall be de-energized before work is done on those circuits and equipment except when necessary for troubleshooting or testing. On all high voltage circuits and on low and medium voltage circuits supplying power to mobile or portable loads, a suitable disconnect providing visible evidence that the power is disconnected shall be locked open and a tag shall be posted by the individuals performing the work. On low and medium voltage circuits supplying power to surface stationary equipment, a suitable disconnecting device shall be locked open and a tag shall be posted by the individuals performing the work. When disconnects for stationary low and medium voltage equipment that do not provide visual evidence that the power is disconnected are used, an adequately rated voltage detector shall be used to test each phase conductor or circuit part to verify that they are de-energized before any work is performed. Confirmation that the voltage detector is operating satisfactorily shall be made before each test. Locks and tags shall be removed only by the persons who installed them or, if those persons are unavailable, by a person authorized by the operator.

(4)[~~(3)~~] (a) Notwithstanding any provisions of subsections (1)***,***[~~ or~~] (2)***, or (3)*** of this section, the department may authorize the construction, maintenance, operation, or conducting of any activity regulated by this section, to be constructed, maintained, operated, or conducted in a different manner than specified in any provision of subsections (1)***,***[~~ or~~] (2)***, or (3)*** of this section, when scientific or engineering information is made available to the department substantially indicating that the different manner would afford equal or greater protection and safety than the manner required in subsections (1)***,***[~~ or~~] (2)***, or (3)*** of this section; and

(b) The department may prescribe administrative regulations with respect to the aboveground or underground installations in connection with any mine operation when information is made available indicating that regulation is reasonably necessary to prevent injury to, or loss of, life and property.

Section 3. KRS 352.230 is amended to read as follows:

(1) All electrical equipment ***and all other electric-driven equipment, except intrinsically safe equipment which is taken into or used inby the last open crosscut and in return airways***[~~purchased for face use~~] in underground mines***,*** shall be[~~ of the~~] permissible[~~ type~~]. The commissioner or his authorized representative shall reject any modification to mining equipment which would endanger the health or safety of employees.

(2)[~~ No person shall be placed in charge of electrical face equipment in any mine unless he is a qualified person, capable of determining the safety of the roof, face, and ribs of the working places and detecting the presence of explosive gas.~~

~~Operators of electrical face equipment shall undergo an examination to determine their fitness to detect explosive gas before they are permitted to have charge of electric face equipment and shall have a minimum of forty-five (45) days of actual mining experience. Safety committeemen, shotfirers, and others whose duty may require them to make examination for gas shall undergo and pass an examination or possess a mine foreman's certificate before using a flame safety lamp underground. The examination shall be given by the mine inspector, blank forms therefor to be furnished by the department. A copy shall be retained on file at the mine office and the original shall be sent to the department fully made out and signed by the applicant and approved by the mine inspector.~~

~~(3) No electric face equipment shall be brought inby the last breakthrough next to the working face until the equipment operator has made an inspection for explosive gas using a flame safety lamp or other approved device or instrument in the place where the equipment is to work, unless the examination is then made by some other competent person authorized and appointed for that purpose by the mine foreman. If any explosive gas is found in the place, the electric equipment shall not be taken in until the gas is removed.~~

~~(4) While the electric equipment is operating at the face, an examination for gas shall be made at not more than twenty (20) minute intervals. If gas is found in excess of one percent (1%), the power shall be disconnected from the equipment and left disconnected until the gas is removed and the place reported safe by a certified official.~~

~~(5)~~] Headlights shall be *properly* installed and maintained in a *workmanlike manner*[~~permissible~~] and working order on all mobile and face equipment at all times the equipment is in operation.

(3)[~~(6)~~] Headlights shall be mounted to provide maximum illumination where it will be most effective and shall be protected from damage by guarding or locations.

(4)[~~(7)~~] At all times when mining equipment is being used, it shall be maintained in safe working order. *Electrical equipment and circuits shall be examined and tested in a suitable manner by certified electricians to ensure safe working order.*

(5) Combustible materials, grease, lubricants, or flammable liquids shall not be allowed to accumulate where they can create a fire hazard.

(6) All electrical equipment utilized in intake airways outby the last open crosscut shall be maintained in safe operating condition and in accordance with the manufacturer's instructions.

SECTION 4. A NEW SECTION OF KRS CHAPTER 352 IS CREATED TO READ AS FOLLOWS:

(1) No person shall be placed in charge of electrical face equipment in any mine unless he is a qualified person capable of determining the safety of the roof, face, and ribs of the working places and detecting the presence of explosive gas. Operators of electrical face equipment shall undergo an examination to determine their fitness to detect explosive gas and shall have a minimum of forty-five (45) days of actual mining experience before they are permitted to have charge of electric face equipment. Safety committeemen, shotfirers, and others whose duty may require them to conduct an inspection for gas shall undergo and pass an examination or possess a mine foreman's certificate before using an approved multi-gas detection device underground. The examination shall be given by the mine inspector. Blank forms for the examination shall be furnished by the department. The original shall be sent to the department completed in full, signed by the applicant, and approved by the mine inspector and a copy shall be retained on file at the mine office.

(2) No electric face equipment shall be brought inby the last breakthrough next to the working face until the equipment operator has made an inspection for explosive gas using an approved gas detection device or instrument in the place where the equipment is to work, unless the inspection is then made by some other competent person authorized and appointed for that purpose by the mine foreman. If any explosive gas in excess of one percent (1%) is found in that area, the electrical equipment shall not be taken in until the gas is removed.

(3) While the electric equipment is operating at the face, an examination for gas shall be made at not more than twenty (20) minute intervals. If methane gas is found in excess of one percent (1%) at any time, the power shall be de-energized from the equipment and left de-energized until the gas is reduced to less than one percent (1%) and the place determined safe by a foreman.

The Committee on State Government reported **HB 11**, with Committee Substitute attached thereto, **HB 15**, with Committee Substitute attached thereto, **HB 106**, with Committee Substitute thereto, **HB 263**, with Committee Substitute attached thereto, and **HB 295**, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 11, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 18A.225 TO 18A.229 IS CREATED TO READ AS FOLLOWS:

As used in this section, unless the context requires otherwise:

(1) (a) "Adjustment fee" means the total additional administrative and actuarial cost to the state group created by unescorted retirees. The adjustment fee shall be expressed as a percentage of gross salary determined by dividing the total estimated actuarial cost of unescorted retirees by the total estimated payroll for employers

participating in the County Employees Retirement System.

(b) "State group" means the group of persons insured pursuant to KRS 18A.225.

(c) "Unescorted retiree" means a retiree whose last employer participates in the County Employees Retirement System and has not entered into an agreement with the Personnel Cabinet to include its employees in the state group. The term shall also include the dependents of the retiree covered under the retiree's health insurance through the state group. A retiree and dependents will cease to be unescorted January 1 of the calendar year for which the retiree's former employer has entered into an agreement with the Personnel Cabinet to include its employees in the state group.

(2) Beginning July 1, 2006, each employer participating in the County Employees Retirement System shall pay an adjustment fee to the retirement system.

(a) The Personnel Cabinet shall determine the additional actuarial cost to the state group because of unescorted retirees who enter the state group during the 2004 calendar year and each subsequent year using a separate rating of the unescorted retirees.

(b) The Kentucky Retirement Systems shall determine the administrative costs to be incurred under this section and notify the Personnel Cabinet of the amount and the total estimated payroll for the County Employees Retirement System. The Personnel Cabinet and the retirement system shall share information necessary to determine the adjustment fee. The administrative costs shall include all expenses associated with the administration of the insurance subsidy account, including attorney fees and court costs, incurred by the Kentucky Retirement Systems or to which it may be subject by reason of its activities in administering the insurance subsidy escrow account, or otherwise arising out of or in connection with the administration of the insurance subsidy escrow account.

(c) The Personnel Cabinet shall notify each employer of the adjustment fee. The Personnel Cabinet shall notify the Department of Education of the adjustment fee to be paid by local school districts, and the Department of Education shall include the amount necessary to fund the adjustment fees of local school districts in the department's biennial budget request.

(d) Except as provided in subsection (3) of this section, the Kentucky Retirement Systems shall deposit the amounts paid by employers into the insurance subsidy escrow account. The insurance subsidy escrow account shall be invested in accordance with KRS 386.020, and all deposits and proceeds shall be used only for the purposes authorized in this section.

(e) The adjustment fee may be altered based on money accumulated in the insurance subsidy escrow account.

(3) Beginning July 1, 2006, the Kentucky Retirement Systems shall remove funds each month to pay administrative costs from the funds received from employers before depositing the balance into the insurance subsidy escrow account.

(4) Beginning January 1, 2008, the health insurance premium paid for an unescorted retiree shall include the adjustment fee but otherwise shall not differ from the premium paid by other state group members. A retiree shall be considered to be retired from his or her last employer.

(5) The Attorney General shall take necessary action to recover funds from employers who have become delinquent in their adjustment fee payments. No retired member or beneficiary shall have his or her health insurance coverage reduced or terminated because of any of the provisions of this section.

(6) The Kentucky Retirement Systems shall have no liability to the Personnel Cabinet, carrier, employer, employee, retiree, beneficiary, or dependent for any claim or loss suffered arising out of the administration of the insurance subsidy escrow account as set forth in this section. The Kentucky Retirement Systems shall be indemnified by the insurance subsidy escrow account against any loss, damage, or expense, including attorney's fees and court costs, incurred by the Kentucky Retirement Systems or to which it may be subject by reason of its activities in administering the insurance subsidy escrow account, or otherwise arising out of or in connection with the administration of the insurance subsidy escrow account.

The Committee Substitute to **HB 11** is as follows:

HB 11, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 18A.225 TO 18A.229 IS CREATED TO READ AS FOLLOWS:

As used in this section, unless the context requires otherwise:

(1) (a) "Adjustment fee" means the total additional administrative and actuarial cost to the state group created by unescorted retirees. The adjustment fee shall be expressed as a percentage of gross salary determined by dividing the total estimated actuarial cost of unescorted retirees by the total estimated payroll for employers participating in the County Employees Retirement System.

(b) "State group" means the group of persons insured pursuant to KRS 18A.225.

(c) "Unescorted retiree" means a retiree whose last employer participates in the County Employees Retirement System and has not entered into an agreement with the Personnel Cabinet to include its employees in the state group. The term shall also include the dependents of the retiree covered under the retiree's health insurance through the state group. A retiree and dependents will cease to be unescorted January 1 of the calendar year for which the retiree's former employer has entered into an agreement with the Personnel Cabinet to include its employees in the state group.

(2) Beginning July 1, 2006, each employer participating in the County Employees Retirement System shall pay an adjustment fee to the retirement system.

(a) The Personnel Cabinet shall determine the additional actuarial cost to the state group because of unescorted retirees who enter the state group during the 2004 calendar year and each subsequent year using a separate rating of the unescorted retirees.

(b) The Kentucky Retirement Systems shall determine the administrative costs to be incurred under this section and notify the Personnel Cabinet of the amount and the total estimated payroll for the County Employees Retirement System. The Personnel Cabinet and the retirement system shall share information necessary to determine the adjustment fee. The administrative costs shall include all expenses associated with the administration of the insurance subsidy account, including attorney fees and court costs, incurred by the Kentucky Retirement Systems or to which it may be subject by reason of its activities in administering the insurance subsidy escrow account, or otherwise arising out of or in connection with the administration of the insurance subsidy escrow account.

(c) The Personnel Cabinet shall notify each employer of the adjustment fee. The Personnel Cabinet shall notify the Department of Education of the adjustment fee to be paid by the state on behalf of those persons deemed state employees under KRS 18A.225 who work in local school districts, and the Department of Education shall include the amount necessary to fund the adjustment fees of local school districts in the department's biennial budget request.

(d) Except as provided in subsection (3) of this section, the Kentucky Retirement Systems shall deposit the amounts paid by employers into the insurance subsidy escrow account. The insurance subsidy escrow account shall be invested in accordance with KRS 386.020, and all deposits and proceeds shall be used only for the purposes authorized in this section.

(e) The adjustment fee may be altered based on money accumulated in the insurance subsidy escrow account.

(3) Beginning July 1, 2006, the Kentucky Retirement Systems shall remove funds each month to pay administrative costs from the funds received from employers before depositing the balance into the insurance subsidy escrow account.

(4) Beginning January 1, 2008, the health insurance premium paid for an unescorted retiree shall include the adjustment fee but otherwise shall not differ from the premium paid by other state group members. A retiree shall be considered to be retired from his or her last employer.

(5) The Attorney General shall take necessary action to recover funds from employers who have become delinquent in their adjustment fee payments. No retired member or beneficiary shall have his or her health insurance coverage reduced or terminated because of any of the provisions of this section.

(6) The Kentucky Retirement Systems shall have no liability to the Personnel Cabinet, carrier, employer, employee, retiree, beneficiary, or dependent for any claim or loss suffered arising out of the administration of the insurance subsidy escrow account as set forth in this section. The Kentucky Retirement Systems shall be indemnified by the insurance subsidy escrow account against any loss, damage, or expense, including attorney's fees and court costs, incurred by the Kentucky Retirement Systems or to which it may be subject by reason of its activities in administering the insurance subsidy escrow account, or otherwise arising out of or in connection with the administration of the insurance subsidy escrow account.

HB 15, AN ACT relating to employment practices of public agencies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) A public agency shall not hire, appoint, or contract with a person retired from the agency within the preceding twelve (12) months to fill a full-time position, unless the position is filled by competitive process and no other qualified person applies for the position.

(2) The provisions of this section shall not apply to local school districts in the employment of certified teachers.

The Committee Substitute to **HB 15** is as follows:

HB 15, AN ACT relating to employment practices of public agencies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) A public agency shall not hire, appoint, or contract with a person retired from the agency within the preceding twelve (12) months to fill a full-time position, unless the position is filled by competitive process and no other more qualified person applies for the position.

(2) The provisions of this section shall not apply to local school districts.

HB 106, AN ACT relating to state employee layoffs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.113 is amended to read as follows:

(1) It shall be unlawful to coerce employees who may be or who are subject to layoff to resign or retire in lieu of layoff. Dismissals shall comply with statutes relating thereto, and layoffs shall not be utilized as a method of dismissal.

(2) In the same cabinet, county, and job classification, interim ***employees, unclassified employees with less than twelve (12) months of service, individuals employed pursuant to the provisions in KRS 45A.690(1)(f) whose primary job functions could reasonably be assumed by existing employees in either the classified or unclassified service of the primary agency of jurisdiction,*** and ***classified***[~~probationary~~] employees ***serving their initial probationary period upon the effective date of this Act*** shall be laid off before full-time or part-time employees with status.[~~ For purposes of layoff, "probationary employee" does not include an employee with status serving a promotional probation.~~] A cabinet shall not transfer positions, including vacant positions, in order to circumvent the provisions of this section.

(3) If two (2) or more employees subject to layoff in a lay-off plan submitted to the secretary have the same qualifications, the employee with the lesser seniority shall be laid off first.

(4) An employee who is laid off shall be placed on a reemployment register for the class of position from which he was laid off and for any class for which he is qualified. He shall have the right to test for any class of position for which he is qualified to take an examination. If he passes the examination, he shall be placed on the register for the class.

(5) For a period of five (5) years, laid-off employees shall be hired before any applicant or eligible except another laid-off employee with greater seniority who is already on such register.

(6) For a period of five (5) years, a laid-off employee shall not be removed from any register unless:

 (a) He notifies the cabinet in writing that he no longer desires consideration for a position on such register;

 (b) He declines two (2) written offers of appointment to a position of the same classification and salary, and located in the same county, as the position from which he was laid off;

 (c) Without good cause, he fails to report for an interview after he has been notified in writing at least ten (10) calendar days prior to the date of the interview;

 (d) He is unqualified for appointment;

 (e) He is unable to perform the duties of the class;

 (f) He has made a false statement of a material fact in his application;

 (g) He has used or attempted to use political influence or bribery to secure an advantage in connection with his placement on the register;

 (h) He has been convicted of a felony within the preceding five (5) years and his civil rights have not been restored or he has not been pardoned by the Governor;

 (i) He has been convicted of a job related misdemeanor, except that convictions for violations of traffic regulations shall not constitute grounds for disqualification;

 (j) He cannot be located by postal authorities at the last address provided by him; or

 (k) He has otherwise willfully violated the provisions of this chapter.

(7) When the cabinet is notified by an appointing authority that a laid-off employee has accepted a bona fide offer of appointment to any position, effective on a specified date, his name may be removed from the register for all classes for which the maximum salary is the same as or less than that of the class to which he has been appointed.

(8) When a laid-off employee is removed from a register he shall be notified in writing and shall be notified of his right to appeal to the board under the provisions of KRS 18A.095.

The Committee Substitute to **HB 106** is as follows:

HB 106, AN ACT relating to state employee layoffs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.113 is amended to read as follows:

(1) It shall be unlawful to coerce employees who may be or who are subject to layoff to resign or retire in lieu of layoff. Dismissals shall comply with statutes relating thereto, and layoffs shall not be utilized as a method of dismissal.

(2) In the same cabinet, county, and job classification, interim *employees, unclassified employees other than cabinet secretaries, commissioners, or executive directors with less than twelve (12) months of service, individuals employed pursuant to the provisions in KRS 45A.690(1)(f) whose primary job functions could reasonably be assumed by existing employees in either the classified or unclassified service of the primary agency of jurisdiction,* and *classified*[~~probationary~~] employees *serving their initial probationary period,* shall be laid off before full-time or part-time employees with status.[~~ For purposes of layoff, "probationary employee" does not include an employee with status serving a promotional probation.~~] A cabinet shall not transfer positions, including vacant positions, in order to circumvent the provisions of this section.

(3) If two (2) or more employees subject to layoff in a lay-off plan submitted to the secretary have the same qualifications, the employee with the lesser seniority shall be laid off first.

(4) An employee who is laid off shall be placed on a reemployment register for the class of position from which he was laid off and for any class for which he is qualified. He shall have the right to test for any class of position for which he is qualified to take an examination. If he passes the examination, he shall be placed on the register for the class.

(5) For a period of five (5) years, laid-off employees shall be hired before any applicant or eligible except another laid-off employee with greater seniority who is already on such register.

(6) For a period of five (5) years, a laid-off employee shall not be removed from any register unless:

  (a) He notifies the cabinet in writing that he no longer desires consideration for a position on such register;
  (b) He declines two (2) written offers of appointment to a position of the same classification and salary, and located in the same county, as the position from which he was laid off;
  (c) Without good cause, he fails to report for an interview after he has been notified in writing at least ten (10) calendar days prior to the date of the interview;
  (d) He is unqualified for appointment;
  (e) He is unable to perform the duties of the class;
  (f) He has made a false statement of a material fact in his application;
  (g) He has used or attempted to use political influence or bribery to secure an advantage in connection with his placement on the register;
  (h) He has been convicted of a felony within the preceding five (5) years and his civil rights have not been restored or he has not been pardoned by the Governor;
  (i) He has been convicted of a job related misdemeanor, except that convictions for violations of traffic regulations shall not constitute grounds for disqualification;
  (j) He cannot be located by postal authorities at the last address provided by him; or
  (k) He has otherwise willfully violated the provisions of this chapter.

(7) When the cabinet is notified by an appointing authority that a laid-off employee has accepted a bona fide offer of appointment to any position, effective on a specified date, his name may be removed from the register for all classes for which the maximum salary is the same as or less than that of the class to which he has been appointed.

(8) When a laid-off employee is removed from a register he shall be notified in writing and shall be notified of his right to appeal to the board under the provisions of KRS 18A.095.

HB 263, AN ACT relating to the dissemination of public information.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The Office of the Attorney General shall, within ninety (90) days of the effective date of this Act, and thereafter, within ninety (90) days of the effective date of any legislation amending the provisions of the Open Meetings Act or the Open Records Act, distribute to all county judge/executives, mayors, county attorneys, city attorneys, superintendents of public school districts, presidents of each of the state public postsecondary education institutions identified in KRS 161.220(4)(b), and attorneys of public school districts and public postsecondary education institutions throughout Kentucky written information prepared by the Office of the Attorney General that explains the procedural and substantive provisions of the Open Meetings Act, KRS 61.805 to 61.850, and the Open Records Act, KRS 61.870 to 61.884, together with the information required by Section 2 of this Act to be prepared by the Department for Libraries and Archives concerning proper retention and management of public records. This distribution may be by electronic means.

SECTION 2. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

The Department for Libraries and Archives shall, within ninety (90) days of the effective date of this Act, and thereafter, within ninety (90) days of the effective date of any legislation amending the provisions of the Open Meetings Act, KRS 61.805 *to 61.850, or the Open Records Act, KRS 61.870 to 61.884, deliver to the Office of the Attorney General written information that explains proper retention and management of public records, which information shall be included in the Office of the Attorney General's distributions as specified in Section 1 of this Act.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) County judge/executives and mayors, or their respective designees, shall distribute the written information provided by the Office of the Attorney General and the Department for Libraries and Archives under Sections 1 and 2 of this Act to each elected official and each member, whether elected or appointed, of every county and city legislative body, local government board, commission, authority, and committee, including boards of special districts, located within their respective jurisdictions. In the case of a board, commission, or authority created by joint action of a county or city, the county judge/executive and mayor, or their respective designees, shall distribute the written information to the members appointed by their respective jurisdictions. Distribution shall be accomplished within sixty (60) days of receiving the written information from the Office of the Attorney General and the Department for Libraries and Archives. Distribution to newly elected or appointed members shall be accomplished within sixty (60) days of their election or appointment. The distribution may be by electronic means.

(2) County judge/executives and mayors shall require signatory proof that each person identified in subsection (1) of this section has received the written information, shall maintain documentation of receipt on file, and shall certify to the Office of the Attorney General that the written information has been distributed as required.

SECTION 4. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) Superintendents of public school districts shall distribute the written information provided by the Office of the Attorney General and the Department for Libraries and Archives under Sections 1 and 2 of this Act to each elected school board member and each school council member, as designated in KRS 160.345(2), within their respective districts. Distribution shall be accomplished within sixty (60) days of receiving the written information from the Office of the Attorney General and the Department for Libraries and Archives. Distribution to newly elected or appointed members shall be accomplished within sixty (60) days of their election or appointment. The distribution may be by electronic means.

(2) Superintendents shall require signatory proof that each school board member and school council member has received the written information as required under subsection (1) of this section, shall maintain documentation of receipt on file, and shall certify to the Office of the Attorney General that the written information has been distributed as required.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The presidents of state postsecondary education institutions identified in KRS 161.220(4)(b) shall distribute the written information provided by the Office of the Attorney General and the Department for Libraries and Archives under Sections 1 and 2 of this Act to each board of regents or governing board member of their university. Distribution shall be accomplished within sixty (60) days of receiving the written information from the Office of the Attorney General and the Department for Libraries and Archives. Distribution to newly appointed members shall be accomplished within sixty (60) days of their appointment. The distribution may be by electronic means.

(2) The presidents of state public postsecondary education institutions shall require signatory proof that each board of regents or governing board member has received the written information as required under subsection (1) of this section, shall maintain documentation of receipt on file, and shall certify to the Office of the Attorney General that the written information has been distributed as required.

The Committee Substitute to **HB 263** is as follows:

HB 263, AN ACT relating to the dissemination of public information.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The Office of the Attorney General shall, within ninety (90) days of the effective date of this Act, and thereafter, within ninety (90) days of the effective date of any legislation amending the provisions of the Open Meetings Act or the Open Records Act, distribute to all county judge/executives, mayors, county attorneys, city attorneys, superintendents of public school districts, presidents of each of the state public postsecondary education institutions identified in KRS 161.220(4)(b), and attorneys of public school districts and public postsecondary education institutions throughout Kentucky written information prepared by the Office of the Attorney General that explains the procedural and substantive provisions of the Open Meetings Act, KRS 61.805 to 61.850, and the Open Records Act, KRS 61.870 to 61.884, together with the information required by Section 2 of this Act to be prepared by the Department for Libraries and Archives concerning proper retention and management of public records. This distribution may be by electronic means.

(2) All superintendents of public school districts and the presidents of each of the state public postsecondary education institutions identified in KRS 161.220(4)(b) shall be responsible for designating and submitting the names and addresses of the attorneys to whom this information shall be disseminated to the Office of the Attorney General.

SECTION 2. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

The Department for Libraries and Archives shall, within sixty (60) days of the effective date of this Act, and thereafter, within sixty (60) days of the effective date of any legislation amending the provisions of the Open Meetings Act, KRS 61.805 to 61.850, or the Open Records Act, KRS 61.870 to 61.884, deliver to the Office of the Attorney General written information that explains proper retention and management of public records, which information shall be included in the Office of the Attorney General's distributions as specified in Section 1 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) County judge/executives and mayors, or their respective designees, shall distribute the written information provided by the Office of the Attorney General and the Department for Libraries and Archives under Sections 1 and 2 of this Act to each elected official and each member, whether elected or appointed, of every county and city legislative body, local government board, commission, authority, and committee, including boards of special districts, located within their respective jurisdictions. In the case of a board, commission, or authority created by joint action of a county or city, the county judge/executive and mayor, or their respective designees, shall distribute the written information to the members appointed by their respective jurisdictions. Distribution shall be accomplished within sixty (60) days of receiving the written information from the Office of the Attorney General and the Department for Libraries and Archives. Distribution to newly elected or appointed members shall be accomplished within sixty (60) days of their election or appointment. The distribution may be by electronic means.

(2) County judge/executives and mayors shall require signatory proof that each person identified in subsection (1) of this section has received the written information, shall maintain documentation of receipt on file, and shall certify to the Office of the Attorney General that the written information has been distributed as required.

SECTION 4. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) Superintendents of public school districts shall distribute the written information provided by the Office of the Attorney General and the Department for Libraries and Archives under Sections 1 and 2 of this Act to each elected school board member and each school council member, as designated in KRS 160.345(2), within their respective districts. Distribution shall be accomplished within sixty (60) days of receiving the written information from the Office of the Attorney General and the Department for Libraries and Archives. Distribution to newly elected or appointed members shall be accomplished within sixty (60) days of their election or appointment. The distribution may be by electronic means.

(2) Superintendents shall require signatory proof that each school board member and school council member has received the written information as required under subsection (1) of this section, shall maintain documentation of receipt on file, and shall certify to the Office of the Attorney General that the written information has been distributed as required.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The presidents of state postsecondary education institutions identified in KRS 161.220(4)(b) shall distribute the written information provided by the Office of the Attorney General and the Department for Libraries and Archives under Sections 1 and 2 of this Act to each board of regents or governing board member of their university. Distribution shall be accomplished within sixty (60) days of receiving the written information from the Office of the Attorney General and the Department for Libraries and Archives. Distribution to newly appointed members shall be accomplished within sixty (60) days of their appointment. The distribution may be by electronic means.

(2) The presidents of state public postsecondary education institutions shall require signatory proof that each board of regents or governing board member has received the written information as required under subsection (1) of this section, shall maintain documentation of receipt on file, and shall certify to the Office of the Attorney General that the written information has been distributed as required.

HB 295, AN ACT relating to administrative regulations and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds that certain administrative regulations as evidenced by the records of the Legislative Research Commission, including but not limited to the Kentucky Administrative Regulations Service and the Administrative Register of Kentucky, were found deficient but became effective notwithstanding the finding of deficiency, pursuant to KRS 13A.330(5)(a)2. or 13A.331(5)(a)2., on or after March 27, 2002, and before the effective date of this Act.

(2) Contrary provisions of any section of the Kentucky Revised Statutes notwithstanding, each administrative regulation referenced in subsection (1) of this section shall be null, void and unenforceable as of the effective date of this Act.

(3) Contrary provisions of any section of the Kentucky Revised Statutes notwithstanding, the administrative body shall be prohibited from promulgating an administrative regulation that is identical to, or substantially the same as, any of the administrative regulations referenced in subsection (1) of this section for a period beginning on the effective date of this Act, and concluding on June 1 of the following year.

(4) A list of the administrative regulations referenced in subsection (1) of this section shall be available to the public, in the office of the Legislative Research Commission's regulations compiler.

Section 2. Whereas it is essential for the public and the administrative agencies of state government that the status of previously promulgated administrative regulations be clearly established, so that the regulated activities of citizens and the regulatory actions of agencies can proceed efficiently and within the law, an emergency is declared to exist, and this Act shall take effect upon its passage and approval by the Governor, or upon its otherwise becoming a law.

Representative Adkins moved to suspend the rules to allow the House to recess for 30 minutes. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of Day

HCR 22, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved the adoption of the Committee Substitute to **HCR 22**. Agreed.

Representative Adkins moved that **HCR 22**, by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 89, Nays 0**. (See January 27, 2004, roll call on **HCR 22** - Appendix.)

HCR 22, by way of Committee Substitute, was adopted.

Representative Adkins moved the adoption of Committee Amendment No. 1 Title to **HCR 22**. Agreed.

Representative Adkins moved that the vote by which **HCR 22**, by way of Committee Substitute, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 281 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **HB 281** be passed.

On the roll call the vote was: **Yeas 88, Nays 1**. (See January 27, 2004, roll call on **HB 281** - Appendix.)

HB 281 was passed and the title agreed to.

Representative McKee moved that the vote by which **HB 281** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 64 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved that the rules be suspended to grant floor privileges to the Lewis family. Agreed.

Representative Webb moved that **HJR 64** be adopted.

On the roll call the vote was: **Yeas 92, Nays 0**. (See January 27, 2004, roll call on **HJR 64** - Appendix.)

HJR 64 was adopted.

Representative Webb moved that the vote by which **HJR 64** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 131, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Westrom moved the adoption of Floor Amendment No. 1 to **HB 131**. Agreed.

Representative Westrom moved that **HB 131**, as amended, be passed.

On the roll call the vote was: **Yeas 89, Nays 0**. (See January 27, 2004, roll call on **HB 131** - Appendix.)

HB 131, as amended, was passed and the title agreed to.

Representative Westrom moved that the vote by which **HB 131**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 344, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Clark moved the adoption of the Committee Substitute to **HB 344**. Agreed.

Representative P. Clark moved that **HB 344**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See January 27, 2004, roll call on **HB 344** - Appendix.)

HB 344, by way of Committee Substitute, was passed and the title agreed to.

Representative P. Clark moved that the vote by which **HB 344**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 383, by Representative Nesler: AN ACT relating to Medicaid.

HB 384, by Representatives Nesler and P. Clark: AN ACT relating to highway signs.

HB 385, by Representative Nesler: AN ACT relating to parking facilities.

HB 386, by Representatives Nesler and P. Clark: AN ACT relating to operator's licenses.

HB 387, by Representative Crimm: AN ACT relating to presidential elections.

HB 388, by Representatives Wayne and Riggs: AN ACT relating to land use.

HB 389, by Representatives Hoover and Wilkey: AN ACT relating to inmates.

HR 99, by Representative Nelson: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Mason Slusher.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bill has been posted for Committee consideration:

Agriculture and Small Business: **HB 336**

Motions, Petitions, and Communications (Continued)

Representative Adkins moved that the rules be suspended to waive posting on **HB 319** and **HB 108**. Agreed.

Representative Horlander moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Horlander moved that he be recorded as voting "yea" on **HCR 22**. Agreed.

Representative Adkins moved that the rules be suspended to allow the Committee on Judiciary to meet upon recess. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 281** and **HB 131**. Agreed.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 72**, by Representative Marzian:

HB 72, On page 8, line 4, after "***nurse***", by deleting "***, age sixty-five (65) or older and retired***" and inserting in lieu thereof "***who is retired***"; and

On page 11, line 19, after "***nurse***", by deleting "***, age sixty-five (65) or older and retired***" and inserting in lieu thereof "***who is retired***".

Floor Amendment No. 1 to **HB 286**, by Representative J. Arnold:

HB 286, On page 2, after line 9, by inserting:

"Section 2. KRS 247.610 is amended to read as follows:

It is declared to be in the interest of the public welfare that Kentucky farmers who are producers of bovine animals shall be permitted and encouraged to act jointly and in cooperation with all producers, handlers, dealers, and processors of bovine animals in promoting and stimulating, by research, market development, and education, the [~~increased production, ~~]use and sale, domestic and foreign, of [~~bovine animals and ~~]bovine animal products.

Section 3. KRS 247.625 is amended to read as follows:

It is hereby further declared to be in the public interest and highly advantageous to the agricultural economy of the state that producers of bovine animals shall be permitted by referendum to be held among ***the***[~~such~~] respective groups and subject to the provisions of KRS 247.610 to 247.685 to levy upon themselves an assessment on bovine animals and provide for the collection of the ***assessment***[~~same~~] for the purpose of financing or contributing towards the financing of a program of research, market development***,*** and education to increase the domestic and foreign consumption, use, sale, and markets for [~~bovine animals and ~~]bovine animal products.".

Floor Amendment No. 2 to the Committee Substitute to **HB 344**, by Representative Comer:

HB 344, On page 1, at line 10, by deleting the words "***one hundred (100)***", and inserting the words "***two hundred fifty (250)***" in lieu thereof; and

On page 2, at line 4, by deleting the words "***one hundred (100)***", and inserting the words "***two hundred fifty (250)***" in lieu thereof; and

On page 2, at line 16, by deleting the words "100-foot", and inserting the words "250-foot" in lieu thereof.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 7, Representatives P. Clark, Nesler, and Sims

HB 18, Representatives Nesler, Sims, and P. Clark

HB 20, Representatives Sims, Nesler, and P. Clark

HB 100, Representatives Nesler and P. Clark

HB 108, Representative Collins

HB 113, Representative Nesler

HB 183, Representative P. Clark

HB 188, Representatives Sims and P. Clark

HB 225, Representatives Nesler and P. Clark

HB 226, Representative P. Clark

HB 234, Representative Weaver

HB 262, Representative Nesler

HB 273, Representative Nesler

HB 274, Representative Riggs

HB 286, Representatives Weaver and P. Clark

HB 287, Representatives Weaver and P. Clark

HB 289, Representative Hall

HB 303, Representative Weaver

HB 323, Representatives P. Clark, Dw. Butler, Couch, and Coleman

HB 351, Representative Yonts

HB 352, Representative P. Clark

HB 358, Representative Sims

HCR 6, Representative Sims

HCR 17, Representative R. Adams

Announcements

The following meeting was announced:

Majority Caucus, Supreme Court Chambers, upon recess

Budget Review Subcommittee on General Government, Finance, and Public Protection - 12:00 Noon, Wednesday, January 28, 2004, Room 125

Committee on Tourism Development and Energy - no meeting, Wednesday, January 28, 2004

Committee on Licensing and Occupations - Wednesday, January 28, 2004, 12:00 Noon

Motions, Petitions, and Communications (Continued)

Representative Adkins moved to suspend the rules to allow the House to recess until 7:00 p.m. for the Governor's Budget Message. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions, and Communications (Continued)

Representative Adkins moved that floor privileges be granted to Constitutional Officers and invited guests. Agreed.

The Speaker welcomed guests.

Representative Adkins moved that the House and Senate resolve into Joint Session. Agreed.

Joint Session

The Chief Doorkeeper announced the arrival of the President of the Senate.

The President of the Senate assumed the Chair and called the Joint Session to order.

Prayer by Reverend Billy Cox, Retired Methodist Minister, Louisville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the flag.

Representative Adkins moved to dispense with a call of the roll. Agreed.

The Chief Doorkeeper announced the arrival of the Governor of the Commonwealth of Kentucky, The Honorable Ernie Fletcher.

Governor Ernie Fletcher addressed the Joint Session of the General Assembly as follows:

My Fellow Kentuckians, Lt. Governor Steve Pence, President Williams, Speaker Richards, Chief Justice Lambert, Constitutional Officers, members of the General Assembly, and other distinguished guests it is my honor to address you this evening and to present the Administration budget for the next biennium.

Let me first thank my budget director, Brad Cowgill, and his staff for the tireless hours they have worked to prepare this budget for Kentucky.

They are an outstanding group of people who are truly public servants.

In one of our early budget meetings, my Budget Director reported on our fiscal condition.

He stated something like this, "Well, there is still a dim light at the end of the tunnel"

However, he followed that with, "But, if we don't do something immediately we can't afford to pay the light bill."

As you know, we took immediate action to ensure that we not only paid the bill but we brightened our way for the next challenging biennium.

The principles and strategies guiding my recommendations, reflect a singular goal, to increase economic opportunity by making Kentucky competitive:

A Competitive Kentucky that provides a world class education and provides skills and lifelong learning,

That empowers citizens to choose healthy lifestyles,

Where families and government are not overwhelmed with the cost of healthcare,

A Competitive Kentucky that aggressively pursues business and career opportunities.

And makes strategic investments for the future,

And a Competitive Kentucky that doesn't solve its budget problems by overburdening people or businesses with higher taxes.

This budget is conservative, goal-driven and compassionate.

It reflects a lot of tough decisions.

And it calls on each of you and every Kentuckian to make reasonable sacrifices for a better future.

It is a path that will take us together to a place we all want to be.

Our travel along this path will begin on July 1.

Our time here is brief, well maybe with the exception of Rep. Bruce.

But the course we together choose determines the character of the distant future.

Before we chart the biennial course, let us examine the ground on which we stand. and the territory we have come through since the inauguration.

It's now clear that I took the oath of this office just in time for the perfect storm . . . a storm with a $302 million shortfall in the current fiscal year, and a deficit in the next fiscal year predicted to be $710 million.

This meant that within the first eighteen months of this administration we would have to resolve a financial crisis exceeding one billion dollars.

We went to work immediately, realizing that action was urgently required on two fronts:

First, we needed to get current year spending under control to prevent our checks from bouncing and to avoid shutting down operations before the end of this year,

Second, we needed to reduce spending by an additional 2.5% in each cabinet in order to form a temporary savings account of at least $100 million which we could spend in the next year.

I am pleased to report success on both fronts.

On January 5, I signed a budget reduction order bringing spending under control and bringing the current year budget into balance.

This goal has not been achieved entirely by the efforts of the Executive Branch.

I am grateful to Chief Justice Lambert for the spending reductions of nearly $2 million which he has pledged on behalf of the Judicial Branch.

And I am grateful to President Williams and Speaker Richards, for the contribution of over $800,000 from the legislative budget.

To all of you who have given time, energy, encouragement, and even criticism I say thank you.

Working together, we are going to make it.

Our goal of saving at least $100 million before June 30 will be achieved without cutting Medicaid or SEEK funding of local school districts.

And that money will permit our government to avoid the more dramatic cuts next summer which so many Kentuckians have feared.

And it will permit us to examine the budget without reducing spending from its current levels, but as the continuation of a baseline that we have already right-sized to the available revenue.

On July 1, our Commonwealth will not step off into a chasm.

We will step forward on a firm and level spending path.

In recent years we have relied heavily on nonrecurring revenue sources to pay our bills.

We've been spending a lot more than we've been taking in.

Because of the upward trend in government spending, our state has been withdrawing from our savings accounts in large amounts.

They are now depleted, and we must stop this practice.

Eliminating the habit of regularly spending more than we take in and establishing what we call a structural balance is an important goal.

And I am pleased to report that in the second year of this budget, we will eliminate the structural imbalance.

We still spend relatively small amounts from the restricted funds and only amounts that represent new recurring dollars.

The suit we must wear now is smaller.

It may pinch at our sleeves and waistline.

But if we shape up and exercise discipline, become fit and trim, we will show our fitness and be more prepared and more competitive.

When I ran for Governor, I promised to balance our budget without increasing the burden of taxes on hardworking Kentuckians.

I have kept my promise.

I also made a second promise.

That I would manage government aggressively to increase efficiency and add value to government spending

Efficiency and value mean doing the most with the least.

In the private sector, competition demands efficiency.

But efficiency in government is achieved only through self discipline and diligent stewardship.

Even if our government was overflowing with a surplus, it would still be our duty to give the people of Kentucky the best value for every dollar they give us.

Budget cuts can be done quickly, but efficiency takes time.

Time means I need the flexibility that has been given in the past.

Without this flexibility, programs will suffer unnecessarily as our ability to manage and move resources would be restricted.

With this flexibility and your oversight we can make our government more effective and efficient.

For example we are stopping the newspaper clipping service that had been used for years, saving up to $100,000 a year.

If we replaced impact printers with laser printers we could save almost $2 million in local tax billing.

We have 40 different marketing divisions many of which can be merged.

We will look at every area but that takes time.

Together we can stop the wasteful spending, provide better services and make a more welcoming place for those who create jobs.

This budget reflects a streamlined government. It gives us the technology and modern management tools we need so that our government can do more with less.

But, our broader focus is on opportunity, that means careers . . .careers for Kentuckians so they can stay and prosper right here at home.

Building careers builds prosperity. That was the test which every line of this budget had to pass.

We will not overlook the pillars of our great Commonwealth.

But the global economy is changing rapidly.

To prosper we will change with it and we will seize the opportunities of the Knowledge Economy.

To do this, we will recognize our universities and our community colleges as essential economic engines.

They transfer technology from the laboratory to the work place.

They are the incubators of human capital.

And for our colleges and universities to fulfill this role, we must invest in their training, technology transfer and research.

That's why our budget makes the wise investment of expanding research space in both of our major universities.

We are building future careers by our investment in seven Community and Technical Colleges across the state.

We have invested in every regional University in our Commonwealth.

This strategic investment will build careers from the Purchase area to the Big Sandy and from Northern Kentucky to the Cumberland.

We are also investing in a math and science academy to keep the best and brightest minds in Kentucky.

We are in tough times but it is no time for timidity.

We must make these investments now.

Our budget supports a coal bed methane initiative and the advancement of clean coal technology projects, including seed money to position Kentucky to compete for a billion dollar federal pilot plant.

As we advance our knowledge economy we will also invest in our great tourism potential.

We are making significant investments in our state parks and investing in marketing Kentucky to foster a rebirth of tourism and convention business.

We also want our communities to be compassionate and fair and we are helping those families who live in the rumbling flight path of the Louisville International Airport.

And we recognize that no part of this state will be competitive without clean water and an adequate waste water system.

Therefore, we have included money for such projects and instructed that they be chosen based on need and economic development potential.

I have provided over $25 million dollars for economic development to support our New Economy initiatives.

And we will keep our promise to the farming community that half of the tobacco settlement money will be set aside for advancing agriculture.

To accomplish this I will work with Commissioner Ritchie Farmer who cannot be here tonight while he's promoting Kentucky agriculture.

I am also doing everything we can to ensure that we preserve our outstanding military facilities. That's why my budget includes $1.2 million for Kentucky's Base Realignment and Closure efforts.

The average family borrows more than 30% of their income for their homes and cars.

To do the proposed projects, we are borrowing less than past years and obligating only a responsible 6% of revenue for debt service.

To keep a solid low interest bond rating I encourage us not to exceed this level.

And I will not support borrowing to meet our operational expenses.

Delaying these strategic investments will only delay us moving Kentucky forward.

I urge you to join me in support of them.

In addition to these economic opportunity investments, I want to increase student scholarships in accordance with the statutory dedications of Lottery funds.

Beginning in Fiscal Year 2006, our state will dedicate 100% of lottery funds to education investments.

Second, our Adjutant General Storm, which by the way is a most fitting name, is passionate about recruitment and taking care of our troops especially as they are pulled from their homes to protect our freedoms.

To that end he has persuaded me.

We are providing college tuition for those brave men and women of our National Guard.

Third, I have included in the second year $5 million toward ending the funding disparity at our regional universities--without a reduction in any university's operating funds.

Fourth, funds are provided to Kentucky State University for its land grant match with the Federal Government to fund the renovation of Young and Hathaway Halls.

At long last, this brings our Commonwealth to full compliance with the partnership agreement with the Federal Office of Civil Rights.

Fifth, I want to provide our colleges and universities reasonable funding for the operation and repair of existing facilities.

I have studied closely the needs of higher education in Kentucky.

I am convinced that even in tight times these five initiatives will help make Kentucky competitive.

But we'll not be competitive until all have been empowered with the critical thinking and technology skills required in the Knowledge-Based economy.

To impart these skills it is more essential than ever that we retain and attract outstanding teachers in our classrooms.

My goal is to raise the salaries of Kentucky teachers to parity with the average of our neighboring states.

To achieve that goal we must press forward even when times are hard and money is tight.

Therefore, I will insist that we increase the salaries of Kentucky classroom teachers by 1.5% in the first year and 3% in the second year.

Classified employees should be provided compensation increases of the same percentages.

During my campaign, I spoke of the need to get more money into the classroom where the magic of learning occurs.

In the months ahead, we will be suggesting ways to reduce overhead and get more resources into the classroom and to reduce the bureaucracy of the paperwork that teachers face.

An initiative that our first Lady is very passionate about is reading.

We believe, and the statistics prove, that children who cannot read at grade level by the third grade are far more likely to fail in every aspect of life.

I am grateful to Senators Kelly and Westwood and Speaker Richards and Representative Moberly for their leadership on our Read to Achieve initiative.

Over the course of the next two years, I have increased the funding for our "Read to Achieve" initiative by $4 million to address the achievement gap we have in specific counties, in addition to the current funding for reading initiatives across the state.

Additionally, I have made reading a priority in directives for surplus spending.

It is absolutely imperative that we move forward aggressively with this early reading initiative.

Without raising taxes we want to keep our educational gains growing.

To do that we feel it is prudent and appropriate that for one year we ask our local school districts to use their reserve funds held by law in reserve for tough times to help us reach our goal for our teachers.

The current reserves held for such a time as this is over $255 million or about 5 times what the entire state has in reserves.

By comparison, the 1.5% increase in the salaries of teachers and classified personnel will result in an expense of $36 million.

To take us to the next level it is critical that we recognize that the single most important factor in the education of a child is the quality of the teacher in the classroom.

Thus, in the most difficult fiscal year '05 we have authorized local school districts to reduce their reserve requirements to provide for this modest increase in salaries.

For the handful of school districts for whom this would create an extraordinary problem, we have created a supplemental fund.

In the second year, the state will fully fund both the 1.5% increase and the additional 3% increase.

In their evaluation of this proposal, I encourage school administrators to remember this:

We have and will continue to permit no cuts in the state's SEEK funding of public schools.

In fact, I propose to increase the basic SEEK funding in the second year.

Finally, I have also protected Family Youth Service Centers to the greatest extent possible.

We wish we could do even more and we all know that tax modernization will make that possible in the future.

During this last year I committed to other goals as well:

To deliver a dollar's worth of service for every dollar of taxes, to resist pressures to raise taxes,

to make the government accountable to the will of the people, free of improper influences,

to bring efficiency, modern management and high technology to the delivery of essential services.

We are in the process of revising how we review personal services through a system that will focus on maximizing value when services are needed through outsourcing.

Fiscal responsibility involves particularly tough choices in the field of medical care and health insurance because of the exploding costs.

The state government's cost of healthcare benefits for state employees and local school districts, if left unmanaged, will rise at unprecedented rates—35% in the next two years.

That level far exceeds the current financial capacity of our government.

A bold new plan of action is required.

That plan will enable us to empower every participant to make meaningful choices which effect their own health . . .

A new plan with health education programs and healthy lifestyle incentives, exercise programs, obesity, smoking and disease management, and drug cost controls.

A plan with those components will create savings.

In addition, we will make available a larger selection of coverage options to move us toward a more consumer driven healthcare system.

That means we need to include increased personal responsibility in our plans.

In the short run, we must make the employee healthcare plan more similar to employee healthcare programs in the private marketplace.

That means there will be increased cost sharing on everyone's part.

To ensure fairness, we will provide reduced rates to employees at the lowest end of the compensation scale, and to employees who need to enroll family members in the plan.

No employer, who expects to receive the respect and loyalty of employees, should fail to show respect and loyalty to them in return.

Many people predicted that balancing the budget without raising taxes would force us to make drastic cuts in the number of state merit employees.

We have not done that.

But, instead we have given state government employees what we have done for teachers – a 1.5% raise in the first year and 3.0 % raise in the second.

We have also funded the technology government employees need to do their work.

And, we will continue funding the Kentucky Retirement System at its current rate.

For a competitive Kentucky we must also modernize Medicaid.

If Medicaid grows at the current rate and remains unmanaged it will provide neither quality healthcare nor remain sustainable for Kentucky.

To begin that work, I have included money to replace our 20-year-old computer system that is written in COBOL.

Only two living souls in state government possess the ability to maintain this antiquated system. We must upgrade our technology.

The bottom line is that we must establish better care, benefit and cash management of Kentucky's Medicaid program to ensure the best care possible for our patients.

We must remember that quality care is less expensive than poor care.

The goal of this Administration is to maintain and better deliver Medicaid services within the current budget.

We will ensure more education and preventive care.

One-quarter of the Medicaid budget goes toward helping Medicaid patients with diabetes and asthma – this will be eased with education and disease management.

Some patients receive over 160 prescription medications in one month under the current Medicaid system – that is simply bad medicine.

Kentucky's Medicaid patient's annual prescriptions are more than double the national average.

Modernizing Medicaid will bring us in line with the national average.

Opportunity cannot exist without safe homes and communities.

I will maintain among the State police a sworn compliment of officers at the current level.

We will also provide funding to replace the outdated and inadequate facility in which criminal evidence is retained.

We are going to provide budgetary relief to the offices of the Commonwealth's Attorneys and the County Attorneys.

Their work is essential to the law and order of our communities.

Sadly, our Corrections Department is confronted with increased populations creating new budgetary challenges.

We have proposed funding to open the Elliott County prison to provide for additional needed prison capacity.

But we have done so under the plan of outsourcing and privatization to insure that we can sustain its operation.

This will secure jobs for the region while not taking funds from other important programs.

I have also provided funds to open and operate three new juvenile detention centers.

We all know that our state has been ravaged by drugs.

Lieutenant Governor Pence, in his capacity as Secretary of Justice, has undertaken one of the state's most critical missions.

We will be increasing our emphasis on treatment as an important component of a long-term solution.

We will use $24 million in federal funds for treatment programs, and we will be leveraging our treatment efforts by reaching out to appropriate faith-based programs as partners.

We will aggressively pursue federal grants, and we are confident this proactive approach will lead to greater federal support of our public safety programs.

But we have lost federal funding of our drug court program, and I propose that we appropriate, to the Judicial Branch, the funds needed to continue that program.

In fact, I have included in the second year of this budget at the request of Chief Justice Lambert and Senator Stivers sufficient funds to extend the drug court program to 61 new counties.

Now, before I conclude, I am aware that we have made tough decisions that will draw some criticism.

But, let me remind you that our current tax code deters economic development and does not reflect the new, knowledge-based economy.

By modernizing our tax system, we will be able to generate economic growth, expand opportunity and avoid such tough times in the future.

In my life as a doctor I have presented tough choices to troubled families facing the gravest days of their lives.

As a new physician filled with fresh knowledge I remember an early encounter with a patient, I gave him all the diagnostic conclusions, the "what ifs" and my most likely diagnosis.

I recommended a course of treatment.

He replied, "That's all well and good but am I going to make it, am I going to get better?"

I had failed to give him the most comforting salve.

I learned then that a patient needs more than medicine, they need hope.

Tonight I have presented to you my prescription for Kentucky's next two years.

It is more than medicine.

It is hope for Kentucky's future.

Thank you, may God bless you and may God Bless our great Commonwealth.

Representative Adkins moved to dissolve the Joint Session. Agreed.

The Speaker resumed the Chair and called the House to order.

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 2:00 p.m., Wednesday, January 28, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 2:00 p.m., Wednesday, January 28, 2004, was adopted by voice vote.

WEDNESDAY, JANUARY 28, 2004

SIXTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Pastor Michel Robinson, Kentucky State University Campus Ministry, Frankfort, Kentucky.

Flag ceremony by Millersburg Military Institute.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Gooch, Ford, and Bather.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 27, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HR 100, by Representative Rasche: A RESOLUTION recognizing the importance of providing appropriate educational opportunities to gifted and talented students and commending the efforts and accomplishments of the Kentucky Association for Gifted Education.

HR 101, by Representative L. Clark: A RESOLUTION adjourning the House of Representatives in honor of Jamie Jo Franklin upon the occasion of her fiftieth birthday on January 28, 2004.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and a Resolution:

Appropriations and Revenue: **HB 377**

Banking and Insurance: **HB 380**

Elections, Constitutional Amendments, and Intergovernmental Relations: **HB 382, 387**

Health and Welfare: **HB 378, 383**

Judiciary: **HB 389**

Licensing & Occupations: **HB 381**

Local Government: **HB 388**

Seniors, Military Affairs, and Public Safety: **HB 379**

Transportation: **HB 384, 385, 386**

House Floor: **HR 99**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Health and Welfare: **HB 342**

Report of Committees

The Committee on Education reported **HB 37**, with Committee Substitute attached thereto, **HB 195**, and **HCR 66** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 37, AN ACT relating to the Kentucky Virtual High School.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.140 is amended to read as follows:

(1) When a pupil in any public elementary school or any approved private or parochial school completes the prescribed elementary program of studies, he is entitled to a certificate of completion signed by the teacher or teachers under whom the program was completed. The certificate shall entitle the pupil to admission into any public high school. Any promotions or credits earned in attendance in any approved public school are valid in any other public school to which a pupil may go, but the superintendent or principal of a school, as the case may be, may assign the pupil to the class or grade to which the pupil is best suited. In case a pupil transfers from the school of one (1) district to the school of another district, an assignment to a lower grade or course shall not be made until the pupil has demonstrated that he is not suited for the work in the grade or course to which he has been promoted.

(2) Upon successful completion of all state and local board requirements, the student shall receive a diploma indicating graduation from high school.

(3) A local school board may award a diploma indicating graduation from high school to any student posthumously with the high school class the student was expected to graduate.

(4) A local board of education shall award a high school diploma to an honorably discharged veteran who was enrolled in, but did not complete, high school prior to being inducted into the United States Armed Forces during World War II as defined in KRS 40.010. Upon recommendation of the commissioner, the Kentucky Board of Education in consultation with the Kentucky Department of Veterans' Affairs shall promulgate administrative regulations to establish the guidelines for awarding these diplomas.

(5) The Department of Education shall establish the requirements for a vocational certificate of completion. A student who has returned to school after dropping out shall receive counseling concerning the vocational program. A student who has completed the requirements established for a vocational program shall receive a vocational certificate of completion specifying the areas of competence.

(6) Upon successful completion of all state board requirements for high school graduation, a student enrolled in the Kentucky Virtual High School under Section 2 of this Act shall receive a diploma conferred by the Kentucky Virtual High School indicating graduation from high school.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

A student of any age sixteen (16) years old or older may enroll in the Kentucky Virtual High School for the purpose of earning credit toward high school graduarion without being enrolled in another secondary school. Credits earned by a student may be used to complete the requirements for a Kentucky Virtual High School diploma under subsection (1) of this section, or to be transferred to a public high school under subsection (4) of this section.

(1) The Kentucky Virtual High School shall award a high school diploma to a student who:

- *(a) Successfully completes all state board requirements for high school graduation;*
- *(b) Is enrolled in the Kentucky Virtual High School;*
- *(c) Is not enrolled in any other public or nonpublic school;*
- *(d) Applies to receive a diploma from the Kentucky Virtual High School; and*
- *(e) Is a resident of Kentucky.*

(2) The Kentucky Virtual High School shall accept the transfer of credits from a:

- *(a) Public high school or nonpublic high school certified by the Kentucky Board of Education under KRS 156.160(3); or*
- *(b) Nonpublic high school not certified by the Kentucky Board of Education under KRS 156.160(3), in the manner established by administrative regulation for the recognition of credits when a student transfers to a public school from a nonaccredited high school.*

(3) Upon request, a public high school shall provide the Kentucky Virtual High School with an official transcript for a student wishing to enroll in the Kentucky Virtual High School.

(4) The Kentucky Virtual High School shall recognize previous credits toward graduation for a student without a properly certified transcript, and for whom a properly certified transcript cannot reasonably be obtained, in the manner established by administrative regulation for students entering a public high school.

(5) A public high school shall accept the transfer of credits earned by a student from the Kentucky Virtual High School under the same rules that govern the acceptance of credits from an accredited public or nonpublic high school.

(6) Nothing in Sections 1 and 2 of this Act shall be construed to require the Kentucky Virtual High School to provide a comprehensive program of studies toward the completion of a high school diploma.

(7) The Kentucky Virtual High School shall provide guidance to prospective students regarding whether the courses available would permit the student to successfully complete the requirements for high school graduation.

(8) The Kentucky Board of Education shall promulgate administrative regulations establishing the procedures for implementation of this section and subsection (6) of Section 1 of this Act. The administrative regulations shall establish the fees to be paid by a participating student, and may include provisions for the waiver of student fees when the cost would be prohibitive in relation to the student's family income.

The Committee Substitute to **HB 37** is as follows:

HB 37, AN ACT relating to the Kentucky Virtual High School.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.140 is amended to read as follows:

(1) When a pupil in any public elementary school or any approved private or parochial school completes the prescribed elementary program of studies, he is entitled to a certificate of completion signed by the teacher or teachers under whom the program was completed. The certificate shall entitle the pupil to admission into any public high school. Any promotions or credits earned in attendance in any approved public school are valid in any other public school to which a pupil may go, but the superintendent or principal of a school, as the case may be, may assign the pupil to the class or grade to which the pupil is best suited. In case a pupil transfers from the school of one (1) district to the school of another district, an assignment to a lower grade or course shall not be made until the pupil has demonstrated that he is not suited for the work in the grade or course to which he has been promoted.

(2) Upon successful completion of all state and local board requirements, the student shall receive a diploma indicating graduation from high school.

(3) ***(a) A local board of education may award a diploma to a person who is a resident of the district and is:***

1. Twenty-one (21) years of age or over and successfully completes all state board requirements for high school graduation through credits earned for courses from the Kentucky Virtual High School combined with credits earned for courses taken during high school; or

2. Between the ages of eighteen (18) and twenty-one (21) and successfully completes all state and local board requirements for high school graduation through credits earned for courses from the Kentucky Virtual High School combined with credits earned for courses taken during high school.

(b) A local school district shall not be responsible for any part of the cost of courses taken from the Kentucky Virtual High School by a person not enrolled in a school in that district.

(4) A local school board may award a diploma indicating graduation from high school to any student posthumously with the high school class the student was expected to graduate.

(5)[~~(4)~~] A local board of education shall award a high school diploma to an honorably discharged veteran who was enrolled in, but did not complete, high school prior to being inducted into the United States Armed Forces during World War II as defined in KRS 40.010. Upon recommendation of the commissioner, the Kentucky Board of Education in consultation with the Kentucky Department of Veterans' Affairs shall promulgate administrative regulations to establish the guidelines for awarding these diplomas.

(6)[~~(5)~~] The Department of Education shall establish the requirements for a vocational certificate of completion. A student who has returned to school after dropping out shall receive counseling concerning the vocational program. A student who has completed the requirements established for a vocational program shall receive a vocational certificate of completion specifying the areas of competence.

Section 2. KRS 158.622 is amended to read as follows:

(1) By December 31, 2002, the Kentucky Board of Education shall promulgate administrative regulations establishing the criteria a school shall meet in order to designate a course an advanced placement course, including content and program standards concerning student admission criteria, data collection, and reporting.

(2) Upon receipt of adequate federal funding for these purposes, by December 31, 2002, the Department of Education shall:

(a) Expand advanced placement teacher training institutes, including offering advanced placement teacher training instruction and assistance through the Kentucky Virtual High School or in conjunction with the Council on Postsecondary Education through the Kentucky Virtual University;

(b) Require teachers who are planning to participate in advanced placement teacher training and complete advanced placement training at advanced placement institutes facilitated by the department to sign an agreement to teach at least one (1) advanced placement course in a Kentucky public school or the Kentucky Virtual High School when assigned by the school principal;

(c) Develop the Kentucky Virtual Advanced Placement Academy which shall offer school districts and their students access to a core advanced placement curriculum through the Kentucky Virtual High School;

(d) Identify, in conjunction with the Council on Postsecondary Education, resources at the secondary and postsecondary levels that can be directed toward advanced placement or dual enrollment instruction;

(e) Compare the costs of offering advanced placement courses through traditional on-site instruction, the Kentucky Virtual High School, and other methods and shall offer each school district assistance, if requested, in analyzing how the school district can most cost-effectively offer the largest number of advanced placement courses;

(f) Identify current and future funding sources for advanced placement or dual enrollment instructional programs and the amount of funds available or anticipated from those sources; and

(g) Submit a report to the Kentucky General Assembly outlining compliance with this section.

(3) ~~[Beginning with the 2002-2003 school year and thereafter,]~~Each school district shall:

(a) Accept for credit toward graduation any course a student successfully completes through the Kentucky Virtual High School and incorporate the grade the student receives in a Kentucky Virtual High School course in calculating that student's grade point average without distinction between the grade received in the Kentucky Virtual High School course and courses taught within the school district for which the student receives a grade;

(b) Accept for credit toward graduation and completion of high school course requirements an advanced placement, a high school equivalent, or a Kentucky Virtual High School course taken by a student in grades 5, 6, 7, or 8 if that student attains performance levels expected of high school students in that district as determined by achieving a score of "3" or higher on a College Board Advanced Placement examination or a grade of "B" or better in a high school equivalent or a Kentucky Virtual High School course; and

(c) Pay tuition and other costs for ***a student***~~[students]~~ from ***the district***~~[their districts]~~ who ***is***~~[are]~~ enrolled in a Kentucky Virtual High School course for credit~~[that is part of the student's regular school day coursework]~~ by proportionately sharing funds generated under KRS 157.360 or other funding sources ***if:***

1. The course is a part of the student's regular school day coursework; or

2. The equivalent course is not provided at the student's school; or

3. The equivalent course is not available to the student at the student's school due to a scheduling conflict with another course; or

4. The student receives an alternative school placement under Section 3 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

A high school may provide a student an alternative school placement with the Kentucky Virtual High School if the school, with the approval of the student and his or her parent, guardian, or other legal custodian determines that the general high school course of study does not appropriately address the student's educational needs.

(1) A student who receives an alternative school placement as a full-time student with the Kentucky Virtual High School shall:

(a) Remain enrolled at his or her high school;

(b) Receive a high school diploma from the school district upon successful completion of all state and local board requirements; and

(c) Be counted as present for the purposes of calculating average daily attendance under KRS 157.360.

(2) Prior to implementing an alternative school placement under subsection (1) of this section, a school shall, in consultation with the Kentucky Virtual High School, provide guidance to students regarding whether the courses available through the Kentucky Virtual High School would permit the student to successfully complete the requirements for high school graduation.

(3) Nothing in Sections 1, 2, and 3 of this Act shall be construed to require the Kentucky Virtual High School to provide a comprehensive program of studies toward the completion of a high school diploma.

(4) The Kentucky board of education shall promulgate administrative regulations establishing the procedures for implementation of Sections 1, 2, and 3 of this Act. The administrative regulations shall establish the fees to be paid by a participating student enrolled in the Kentucky Virtual High School and may include provisions for the waiver of student fees when the cost would be prohibitive in relation to the student's family income.

HB 195, AN ACT relating to leaves of absence for teachers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.770 is amended to read as follows:

(1) Upon written request of a teacher or superintendent, a board of education may grant a leave of absence for a period of not more than two (2) consecutive school years for educational or professional purposes, and shall grant such leave where illness, maternity, adoption of a child or children, or other disability is the reason for the request. ***A board of education may grant a leave of absence for any other reason deemed acceptable.*** Upon subsequent request, such leave may be renewed by the board. A board of education may pay a sum of money equivalent to all or any portion of salary to a teacher or superintendent who has been granted leave for educational or professional purposes if the person taking said leave agrees in writing to return to employment with the board for no less than two (2) years.

(2) Without request, a board of education may grant leave of absence and renewals thereof to any teacher or superintendent because of physical or mental disability, but such teacher or superintendent shall have the right to a hearing and appeal on such unrequested leave of absence or its renewal in accordance with the provisions for hearing and appeal in KRS 161.790.

(3) Upon the return to service of a teacher or superintendent at the expiration of a leave of absence, he shall resume the contract status which he held prior to such leave.

(4) Payments to any teacher or superintendent under this section by a local district are intended and presumed to be for and in consideration of services rendered and for the benefit of the common schools and such payments do not affect the eligibility of any school district to share in the distribution of funds from the public school funds as established in KRS Chapter 157.

HCR 66, A CONCURRENT RESOLUTION confirming the appointment of John S. Turner to the Council on Postsecondary Education.

WHEREAS, KRS 164.011 requires the Governor to appoint thirteen citizen members to the Council on Postsecondary Education, subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, the Governor has appointed John S. Turner as a citizen member of the Council on Postsecondary Education for a term expiring December 31, 2009; and

WHEREAS, the House of Representatives and the Senate find that John S. Turner meets the requirements of KRS 164.0053 and KRS 164.011 for service on the Council on Postsecondary Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate, as required by KRS 164.011, hereby confirm the appointment of John S. Turner to the Council on Postsecondary Education for a term expiring December 31, 2009.

Section 2. The Clerk of the House of Representatives shall notify John S. Turner, 530 Hill Creek Road, Lebanon, Kentucky 40033 and Governor Ernie Fletcher, State Capitol Building, Room 100, Frankfort, Kentucky 40601, in writing, of the General Assembly's action.

The Committee on Banking and Insurance reported **HB 319** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 319, AN ACT relating to establishing bank branches.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 287.920 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Interstate merger transaction" means the merger or consolidation of banks with different home states, and the conversion of branches of any bank involved in the merger or consolidation into branches of the resulting bank; and

(b) "Resulting bank" means a bank that has resulted from an interstate merger transaction under this section.

(2) A Kentucky state bank may establish, maintain, and operate one (1) or more branches in a state other than Kentucky in accordance with an interstate merger transaction in which the Kentucky state bank is the resulting bank, or if the other state permits, by acquisition of a branch or branches in the other state. Not later than the date on which the required application for the interstate merger transaction or branch acquisition is filed with the responsible federal bank supervisory agency, the applicant shall file an application on a form prescribed by the commissioner and pay the fee prescribed by KRS 287.480. The applicant shall also comply with the applicable provisions of KRS 287.180(2) and the commissioner shall base his or her approval or disapproval in the same manner as prescribed in KRS 287.180(2).

(3) An out-of-state state bank may establish, maintain, and operate one (1) or more branches in Kentucky in accordance with an interstate merger transaction in which the out-of-state state bank is the resulting bank *in accordance with the requirements of Kentucky laws and administrative regulations. If the laws of the home state of the out-of-state bank place more restrictive terms or requirements on Kentucky state banks seeking to acquire and merge with a bank in that state, the interstate merger of the out-of-state bank may be allowed only under substantially the same terms and conditions as applicable to Kentucky state banks in that state*. Not later than the date on which the required application for the interstate merger transaction is filed with the responsible federal bank supervisory agency, the applicant shall file an application on a form prescribed by the commissioner, pay the fee prescribed by KRS 287.480, and agree in writing to comply with the laws of this state applicable to its operation of branches in Kentucky. The applicant shall also comply with the applicable provisions of KRS 287.180(2) and the commissioner shall base his or her approval or disapproval in the

same manner as prescribed in KRS 287.180(2).

(4) No interstate merger transaction under subsection (2) or (3) of this section shall be approved if the transaction would result in a bank holding company having control of banks or branches in this state holding more than fifteen percent (15%) of the total deposits and member accounts in the offices of all federally insured depository institutions in this state as reported in the most recent June 30 quarterly report made by the institutions to their respective supervisory authorities which are available at the time of the transaction.

(5) An individual or bank holding company that controls two (2) or more banks may, from time to time, combine any or all of the commonly controlled banks in this Commonwealth into and with any one (1) of the banks, and thereafter the surviving bank shall continue to operate its principal office and may operate the other authorized offices of the banks so combined as branches of the surviving bank.

(6) A branch of an out-of-state state bank may conduct any activities that are authorized under the laws of this state for state banks. Additionally, the branch of an out-of-state state bank is authorized to conduct any activities relating to the administration of trusts that are authorized under the laws of its home state, if the activities are conducted in conformity with the laws of its home state.

(7) A branch of a Kentucky state bank located in a host state may conduct any activities that are:

 (a) Authorized under the laws of the host state for banks chartered by the host state; or

 (b) Authorized for branches of national banks located in the host state, but whose principal location is in a state other than the host state.

The Committee on Licensing and Occupations reported **HB 126**, with Committee Substitutes attached thereto, with the expression of opinion that the same should pass. Reported to the Committee on Rules.

The Committee Substitute No. 2 to **HB 126** is as follows:

HB 126, AN ACT relating to boxing and wrestling.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 229 IS CREATED TO READ AS FOLLOWS:

(1) At least one (1) physician shall be present at ringside for each professional match. The physician shall observe the contestants' physical condition and shall advise the commission or its representative and the referee of the contestants' physical and medical conditions before, during, and after the match. A physician under this subsection shall meet the requirements established for a physician under Section 3 of this Act.

(2) A ringside physician assigned to a professional match who determines that the contestant is physically unfit to compete may order the referee to stop the match.

Section 2. KRS 229.180 is amended to read as follows:

(1) The commission *may promulgate administrative regulations it considers*[~~is authorized to adopt and promulgate, amend or abrogate any and all rules and regulations considered by it~~] necessary or expedient for the performance of its functions provided in this chapter. In recognition of the fact that more supervision is desirable in this area, it is the intention of the General Assembly to confer upon the commission wider discretion than that ordinarily possessed by administrative agencies.

(2) Administrative regulations promulgated under this section shall address:

 (a) The procedures by which weigh-ins for all professional matches are conducted. The procedures shall require that a weigh-in be conducted no more than twenty-four (24) hours before the scheduled start of the match.

 (b) The qualifications and the duties of all licensees, including the promoter's duty to ensure that:

  1. A licensed physician meeting the requirements of subsection (1) of Section 3 of this Act is present at the professional match;

  2. Primary medical insurance is available for injuries sustained by the contestant the promoter is promoting; and

  3. An ambulance and medical personnel with appropriate resuscitation equipment are continuously present at the site where the professional match takes place, and the ambulance is available for transport.

 (c) Provisions relating to the conduct and safety of those involved in professional matches, including provisions:

  1. Prohibiting the use of flash photography at the ringside;

  2. Requiring that officials wear disposable gloves during the match and at other times determined by the commission;

  3. Requiring that biohazard bags be placed in the corners of the ring and in the dressing rooms; and

  4. Requiring that professionals submit a signed medical information release to the commission by which *the professional's medical records during the tenure of his or her career as a professional may be accessed. The medical release form shall conform with applicable state and federal laws.*

Section 3. KRS 229.111 is amended to read as follows:

(1) Contestants in a professional boxing[~~ or wrestling~~] match or exhibition shall be examined by a reputable licensed physician appointed by the commission, and shall meet the health and fitness requirements as established in administrative regulations promulgated by the commission before participating in such a *professional*[~~boxing or wrestling~~] match[~~ or exhibition~~]. *A physician performing medical examinations under this section shall:*

(a) Hold a regular license under KRS 311.571;

(b) Be in good standing with the State Board of Medical Licensure;

(c) Have medical malpractice insurance coverage in accordance with commission-approved standards established by a nationally or regionally-recognized association of ringside physicians;

(d) Have not had his or her license suspended or revoked in any jurisdiction; and

(e) Have had training and continuing education in accordance with commission-approved standards established by a nationally or regionally recognized association of ringside physicians. If no national or regional organization has established standards, the commission shall promulgate administrative regulations establishing its own standards for physician training and continuing education in ringside medicine.

(2) Administrative regulations promulgated by the commission under subsection (1) of this section shall, at a minimum:

(a) Require that urine tests be given at such times as established by the commission. The regulations shall preclude a contestant from participating in the next scheduled professional match if the test results reveal that the contestant is under the influence of alcohol, narcotics, drugs, stimulants, or depressants;

(b) Require that any contestant who has received a technical knockout be placed on immediate medical suspension, prohibiting that contestant from participating in a professional match and from sparring for thirty (30) days;

(c) Require that any contestant who has received a knockout or suffered a serious injury be placed on immediate medical suspension, prohibiting that contestant from participating in a professional match and from sparring for forty-five (45) days;

(d) Require that any contestant who has received six (6) or more technical knockouts or six (6) or more knockouts, or has experienced six (6) or more consecutive losses be placed on immediate medical suspension. That contestant shall be prohibited from competing in a professional match and from sparring for such period of time until a magnetic resonance imaging or computerized axial topography and other examinations as may be required by the commission or the examining physician have been conducted and reviewed by a physician who determines that the contestant is physically fit to participate in a professional match and to spar;

(e) Require that the contestant undergo additional medical procedures prior to a professional match if the examining physician or the commission determines that the procedures are necessary for the health and safety of the contestants;

(f) Require that a physical examination be given annually to all contestants; and

(g) Require other actions the commission deems necessary.

(3) (a) The physical examination and the medical procedures the contestant undergoes under subsection (2) of this section shall include such tests as a physician or a specialist exercising ordinary care would require, and shall take into consideration the contestant's age, injuries, performance history, number of losses, years of experience, and the number of professional matches in which the contestant has participated. In furtherance of this subsection, the commission shall promulgate administrative regulations identifying high-risk medical conditions and recommended procedures and treatment options for each condition. The procedures shall be sufficiently adequate to determine if the contestant has any condition that is aggravated or jeopardized by the contestant's participation in a professional match, and may include but not be limited to a magnetic resonance imaging, a computerized axial topography, a neurological examination, psychological tests, and an electrocardiogram. In establishing the list of risks and possible treatment options, the commission shall obtain input from the Association of Ringside Physicians, the State Board of Medical Licensure, and each of the two (2) state-supported medical schools. Such guidelines shall be in effect until such time as the Association of Ringside Physicians or a comparable organization of industry physicians establishes guidelines.

(b) A physical examination conducted pursuant to paragraph (a) of this subsection and subsection (2) of this section shall, at a minimum, require that:

1. A dilated eye examination be given annually;

2. Tests to detect hepatitis B and C and human immunodeficiency virus be given annually;

3. A baseline electrocardiogram be given;

4. A detailed history of any medical condition that may affect the professional's safety be included;

5. A final physical checkup be given at the site of the match within twenty-four (24) hours prior to the *match; and*

7. If the contestant is female, a serum or urine pregnancy test be given within twenty-four (24) hours prior to the match.

(4) Each contestant shall be examined by a physician meeting the requirements of subsection (1) of this section at the time of the pre-match weigh-in. The examination shall comply with administrative regulations promulgated by the commission and the physician shall find a contestant unfit if he or she has not complied with the provisions of subsections (2) to (4) of this section. If the physician determines that a contestant is physically or mentally unfit to proceed, the physician shall notify a commissioner or a commission representative who shall immediately cancel the match. The results of the examination shall be reported in writing to the commission.

(5) The commission may require each contestant to present to the commission representative at the time of the weigh-in an original copy of the results of blood tests given to the contestant within the last twelve (12) months and may require that random blood tests be given at such times as may be required by the commission. The purpose of these tests is to show whether the contestant is free from communicable diseases. If the blood tests results reveal that the contestant has a communicable disease that poses a risk to the contestant or others licensed under this chapter, or if the contestant fails to submit the results of the blood tests to the commission, the commission representative shall immediately cancel the professional match. The commission shall promulgate administrative regulations establishing protocols and procedures for:

(a) The blood tests to be given, including the time period within which a blood test shall be given prior to a match;

(b) The cancellation of a match; and

(c) The treatment of communicable diseases.

Section 4. KRS 229.151 is amended to read as follows:

(1) There is hereby established the Kentucky Athletic Commission which shall consist of seven (7) members, appointed by the Governor, with initial appointments for two (2) members for terms of four (4) years, two (2) members for terms of three (3) years, two (2) members for terms of two (2) years, and one (1) member for a term of one (1) year, except that of the members appointed after July 15, 1998, two (2) members appointed to fill the terms expiring July 14, 1999, shall serve until February 14, 2000; two (2) members appointed to fill the terms expiring July 14, 2000, shall serve until February 14, 2001; one (1) member appointed to fill the term expiring July 14, 2001, shall serve until February 14, 2002; two (2) members appointed to fill the terms expiring July 14, 2002, shall serve until February 14, 2003; and subsequent appointments shall be for four (4) year terms ending on February 14. Thereafter, members shall be appointed by the Governor for staggered terms of four (4) years. At least one (1) member shall have a background in the professional boxing or wrestling industry. At least one (1) member shall be a~~[licensed]~~ physician *who holds a regular license under KRS 311.571. The physician member shall be in good standing with the State Board of Medical Licensure, shall have at least five (5) years of experience as a physician, and shall not have had his license suspended or revoked in any jurisdiction*.~~[The executive director of the Division of Occupations and Professions shall serve on the commission in an ex officio capacity.]~~ One (1) member shall be designated by the Governor as chairman and one (1) member shall be elected by the commission as vice chairman, who shall have authority to act as chairman in the event of the chairman's absence or inability to act. The chairman, vice chairman, other members of the commission, and those persons referred to in KRS 229.161, shall receive one hundred dollars ($100) per day for each meeting attended and shall be paid their actual and necessary traveling and other expenses incurred by them in the performance of their official duties. The commission shall hold one (1) regular meeting every three (3) months. Four (4) members of the commission shall constitute a quorum to conduct business.

(2) The board shall be placed for organizational purposes under the Division of Occupations and Professions which shall provide administrative and secretarial services.

(3) No member of the commission, nor his or her family member, business partner, or affiliate shall have a financial interest in any person or business entity involved in arranging, managing, promoting, organizing, producing, or fighting in a professional match in this state.

Section 5. KRS 229.171 is amended to read as follows:

(1) The commission shall have and hereby is vested with the sole direction, management, control, and jurisdiction over all professional boxing, sparring, and wrestling matches or exhibitions to be conducted, held, or given within the Commonwealth. The commission is hereby given the sole control, authority, and jurisdiction over all licenses to hold boxing, sparring, or wrestling matches or exhibitions for prizes or purses or where an admission fee is received, and over all licenses to any and all persons who participate in the boxing, sparring, or wrestling matches, or exhibitions.

(2) The commission shall administer this chapter and shall perform all duties necessary for the regulation of boxing, including supervising all professional matches and weigh-ins and enforcing the provisions of this chapter and administrative regulations promulgated thereunder.

(3) The commission shall maintain all records, including any books, papers, or documents relating to the commission's action, and shall electronically record its proceedings, meetings, hearings, and deliberations.

Section 6. KRS 229.081 is amended to read as follows:

(1) A person shall not participate in a professional match in any of the following enumerated capacities or in any other capacity as set out in administrate regulations promulgated by the commission without holding a license issued by the commission and meeting all eligibility requirements as established by the commission by promulgation of administrative regulations:

(a)[~~(1)~~] Contestant;

(b)[~~(2)~~] Judge;

(c)[~~(3)~~]Manager;

(d)[~~(4)~~] Physician;

(e)[~~(5)~~]Referee;

(f)[~~(6)~~] Timekeeper;[~~ or~~]

(g)[~~(7)~~] Trainer*;*

(h) Second; or

(i) Promoter.

(2) Licenses issued under this section shall expire on December 31 of the year in which they are issued. The commission may establish a schedule of compensation to be paid to officials for participating in a professional match by promulgation of administrative regulations. The compensation shall be paid by the person conducting the match, and by no other person.

(3) No person who is employed by a contestant to serve in one (1) of the positions under paragraphs (b) to (i) of subsection (1) of this section shall serve in another of those positions for the same contestant. This subsection shall supersede the rules and regulations of a sanctioning organization.

(4) A contestant may serve as his or her own manager or promoter.

Section 7. KRS 229.011 is amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise the following definitions shall apply:

(1) "Advertise" *means*[~~includes~~] the use of handbills, placards, posters, billboards, pictures, printed or written material or newspapers or other publications, or radio, television and other communication media.

(2) "Exhibition," in addition to its ordinary meaning, *means*[~~shall include~~] a public show or showing through the medium of closed circuit television to which an admission ticket is required, or other charge is made.

(3) "Person" *means*[~~includes~~] an individual, partnership, corporation, association or club.

(4) "Professional" *means*[~~is~~] a boxer or wrestler who competes for a money prize, or other pecuniary gain.

(5) "Professional match" *means*[~~is~~] a boxing, sparring, or wrestling match or exhibition in which a professional is a contestant.

(6) "Affiliate" means a person who directly, or indirectly through one (1) or more intermediaries, controls, is controlled by, or is under common control with a specified person.

Section 8. KRS 229.991 is amended to read as follows:

(1) Any person who violates subsection (1) of KRS 229.071 or subsection (1) of KRS 229.021 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than six (6) months, or both.

(2) Any person who violates subsection (2), (3), or (4) of KRS 229.021 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned in the county jail for not more than ninety (90) days, or both.

(3) Any person who violates KRS 229.081*(1)* where the violation does not constitute a violation of KRS 229.021, shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(4) Any peace officer who willfully fails to execute the duties required of him by KRS 229.240 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500).

(5) Any person who violates any of the provisions of this chapter for which no specific penalty is provided shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100).

(6) Any person who fails to pay the taxes required by KRS 229.031 or ascertained to be due under KRS 229.041 together with the expenses incurred in the examination, within twenty (20) days after notice to the delinquent person of the amount fixed by the commission shall ipso facto forfeit his license. In addition he shall forfeit and pay into the State Treasury an additional amount equal to the taxes found to be due.

(7) Any person who violates the provisions of KRS 229.121 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) and no person who has been guilty of such an offense shall be allowed to participate in any boxing or wrestling match or exhibition for one (1) year after being found guilty of the offense.

(8) Any person failing to make the report required by subsection (2) or (4) of KRS 229.031 shall be liable for any tax the Commonwealth may lose as a result of his failure to make the required report.

SECTION 9. A NEW SECTION OF KRS CHAPTER 229 IS CREATED TO READ AS FOLLOWS:

This chapter may be cited as the Greg Page Act.

The Committee on Licensing and Occupations reported **HB 341**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 341, AN ACT relating to the practice of pharmacy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 315.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Administer" means the direct application of a drug to a patient or research subject by injection, inhalation, or ingestion, whether topically or by any other means;

(2) "Association" means the Kentucky Pharmacists Association;

(3) "Board" means the Kentucky Board of Pharmacy;

(4) "Collaborative care agreement" means a written agreement between a specifically identified individual practitioner and a pharmacist who is specifically identified, whereby the practitioner outlines a plan of cooperative management of a specifically identified individual patient's drug-related health care needs that fall within the practitioner's statutory scope of practice. The agreement shall be limited to specification of the drug-related regimen to be provided and any tests which may be necessarily incident to its provisions; stipulated conditions for initiating, continuing, or discontinuing drug therapy; directions concerning the monitoring of drug therapy and stipulated conditions which warrant modifications to dose, dosage regimen, dosage form, or route of administration;

(5) "Compound" or "compounding" means the preparation or labeling of a drug pursuant to or in anticipation of a valid prescription drug order including, but not limited to, packaging, intravenous admixture or manual combination of drug ingredients. Compounding, as used in this chapter, shall not preclude simple reconstitution, mixing, or modification of drug products prior to administration by nonpharmacists;

(6) "Confidential information" means information which is accessed or maintained by a pharmacist in a patient's record, or communicated to a patient as part of patient counseling, whether it is preserved on paper, microfilm, magnetic media, electronic media, or any other form;

(7) "Continuing education unit" means ten (10) contact hours of board approved continuing pharmacy education. A "contact hour" means fifty (50) continuous minutes without a break period;

(8) "Dispense" or "dispensing" means to deliver one (1) or more doses of a prescription drug in a suitable container, appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription drug;

(9) "Drug" means any of the following:

 (a) Articles recognized as drugs or drug products in any official compendium or supplement thereto; or

 (b) Articles, other than food, intended to affect the structure or function of the body of man or other animals; or

 (c) Articles, including radioactive substances, intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; or

 (d) Articles intended for use as a component of any articles specified in paragraphs (a) to (c) of this subsection;

(10) "Drug regimen review" means retrospective, concurrent, and prospective review by a pharmacist of a patient's drug-related history, including but not limited to, the following areas:

 (a) Evaluation of prescription drug orders and patient records for:

  1. Known allergies;

  2. Rational therapy contraindications;

  3. Appropriate dose and route of administration;

  4. Appropriate directions for use; or

  5. Duplicative therapies.

 (b) Evaluation of prescription drug orders and patient records for drug-drug, drug-food, drug-disease, and drug-clinical laboratory interactions;

 (c) Evaluation of prescription drug orders and patient records for adverse drug reactions; or

 (d) Evaluation of prescription drug orders and patient records for proper utilization and optimal therapeutic outcomes;

(11) "Immediate supervision" means under the physical and visual supervision of a pharmacist;

(12) "Manufacturer" means any person, except a pharmacist compounding in the normal course of professional practice, within the Commonwealth engaged in the commercial production, preparation, propagation, compounding, conversion or processing of a drug, either directly or indirectly, by extraction from substances of natural origin or independently by

means of chemical synthesis, or both, and includes any packaging or repackaging of a drug or the labeling or relabeling of its container;

(13) "Medical order" means a lawful order of a specifically-identified practitioner for a specifically-identified patient for the patient's health care needs. "Medical order" may or may not include a prescription drug order;

(14) "Nonprescription drugs" means nonnarcotic medicines or drugs which may be sold without a prescription and are prepackaged and labeled for use by the consumer in accordance with the requirements of the statutes and regulations of this state and the federal government;

(15) "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy;

(16) "Pharmacist intern" means a natural person who is:

(a) Currently certified by the board to engage in the practice of pharmacy under the direction of a licensed pharmacist and who satisfactorily progresses toward meeting the requirements for licensure as a pharmacist;

(b) A graduate of an approved college or school of pharmacy or a graduate who has established educational equivalency by obtaining a Foreign Pharmacy Graduate Examination Committee (FPGEC) certificate, who is currently licensed by the board for the purpose of obtaining practical experience as a requirement for licensure as a pharmacist;

(c) A qualified applicant awaiting examination for licensure as a pharmacist or the results of an examination for licensure as a pharmacist; or

(d) An individual participating in a residency or fellowship program approved by the board for internship credit;

(17) "Pharmacy" means every place where:

(a) Drugs are dispensed under the direction of a pharmacist;

(b) Prescription drug orders are compounded under the direction of a pharmacist; or

(c) A registered pharmacist maintains patient records and other information for the purpose of engaging in the practice of pharmacy, whether or not prescription drug orders are being dispensed;

(18) "Pharmacy technician" means a natural person who works under the immediate supervision, or general supervision if otherwise provided for by statute or administrative regulation, of a pharmacist for the purpose of assisting a pharmacist with the practice of pharmacy;

(19) "Practice of pharmacy" means interpretation, evaluation, and implementation of medical orders and prescription drug orders; responsibility for dispensing prescription drug orders, including radioactive substances; participation in drug and drug-related device selection***;***[~~,~~] administration of ***medications or biologics***[~~medication~~] in the course of dispensing or maintaining a prescription drug order***; the administration of adult immunizations pursuant to prescriber-approved protocols;***[~~, and~~] drug evaluation, utilization, or regimen review; maintenance of patient pharmacy records; and provision of patient counseling and those professional acts, professional decisions, or professional services necessary to maintain and manage all areas of a patient's pharmacy-related care, including pharmacy-related primary care as defined in this section;

(20) "Practitioner" has the same meaning given in KRS 217.015(35);

(21) "Prescription drug" means a drug which:

(a) Under federal law is required to be labeled with either of the following statements:

1. "Caution: Federal law prohibits dispensing without prescription"; or

2. "Caution: Federal law restricts this drug to use by, or on the order of, a licensed veterinarian"; or

(b) Is required by any applicable federal or state law or administrative regulation to be dispensed only pursuant to a prescription drug order or is restricted to use by practitioners;

(22) "Prescription drug order" means an original or new order from a practitioner for drugs, drug-related devices or treatment for a human or animal, including orders issued through collaborative care agreements. Lawful prescriptions result from a valid practitioner-patient relationship, are intended to address a legitimate medical need, and fall within the prescribing practitioner's scope of professional practice;

(23) "Pharmacy-related primary care" means the pharmacists' activities in patient education, health promotion, assistance in the selection and use of over-the-counter drugs and appliances for the treatment of common diseases and injuries as well as those other activities falling within their statutory scope of practice;

(24) "Society" means the Kentucky Society of Health-Systems Pharmacists;

(25) "Supervision" means the presence of a pharmacist on the premises to which a pharmacy permit is issued, who is responsible, in whole or in part, for the professional activities occurring in the pharmacy; and

(26) "Wholesaler" means any person who legally buys drugs for resale or distribution to persons other than patients or consumers.

The Committee Substitute to **HB 341** is as follows:

HB 341, AN ACT relating to the practice of pharmacy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 315.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Administer" means the direct application of a drug to a patient or research subject by injection, inhalation, or ingestion, whether topically or by any other means;

(2) "Association" means the Kentucky Pharmacists Association;

(3) "Board" means the Kentucky Board of Pharmacy;

(4) "Collaborative care agreement" means a written agreement between a specifically identified individual practitioner and a pharmacist who is specifically identified, whereby the practitioner outlines a plan of cooperative management of a specifically identified individual patient's drug-related health care needs that fall within the practitioner's statutory scope of practice. The agreement shall be limited to specification of the drug-related regimen to be provided and any tests which may be necessarily incident to its provisions; stipulated conditions for initiating, continuing, or discontinuing drug therapy; directions concerning the monitoring of drug therapy and stipulated conditions which warrant modifications to dose, dosage regimen, dosage form, or route of administration;

(5) "Compound" or "compounding" means the preparation or labeling of a drug pursuant to or in anticipation of a valid prescription drug order including, but not limited to, packaging, intravenous admixture or manual combination of drug ingredients. Compounding, as used in this chapter, shall not preclude simple reconstitution, mixing, or modification of drug products prior to administration by nonpharmacists;

(6) "Confidential information" means information which is accessed or maintained by a pharmacist in a patient's record, or communicated to a patient as part of patient counseling, whether it is preserved on paper, microfilm, magnetic media, electronic media, or any other form;

(7) "Continuing education unit" means ten (10) contact hours of board approved continuing pharmacy education. A "contact hour" means fifty (50) continuous minutes without a break period;

(8) "Dispense" or "dispensing" means to deliver one (1) or more doses of a prescription drug in a suitable container, appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription drug;

(9) "Drug" means any of the following:

  (a) Articles recognized as drugs or drug products in any official compendium or supplement thereto; or

  (b) Articles, other than food, intended to affect the structure or function of the body of man or other animals; or

  (c) Articles, including radioactive substances, intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; or

  (d) Articles intended for use as a component of any articles specified in paragraphs (a) to (c) of this subsection;

(10) "Drug regimen review" means retrospective, concurrent, and prospective review by a pharmacist of a patient's drug-related history, including but not limited to, the following areas:

  (a) Evaluation of prescription drug orders and patient records for:

    1. Known allergies;

    2. Rational therapy contraindications;

    3. Appropriate dose and route of administration;

    4. Appropriate directions for use; or

    5. Duplicative therapies.

  (b) Evaluation of prescription drug orders and patient records for drug-drug, drug-food, drug-disease, and drug-clinical laboratory interactions;

  (c) Evaluation of prescription drug orders and patient records for adverse drug reactions; or

  (d) Evaluation of prescription drug orders and patient records for proper utilization and optimal therapeutic outcomes;

(11) "Immediate supervision" means under the physical and visual supervision of a pharmacist;

(12) "Manufacturer" means any person, except a pharmacist compounding in the normal course of professional practice, within the Commonwealth engaged in the commercial production, preparation, propagation, compounding, conversion or processing of a drug, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis, or both, and includes any packaging or repackaging of a drug or the labeling or relabeling of its container;

(13) "Medical order" means a lawful order of a specifically-identified practitioner for a specifically-identified patient for the

patient's health care needs. "Medical order" may or may not include a prescription drug order;

(14) "Nonprescription drugs" means nonnarcotic medicines or drugs which may be sold without a prescription and are prepackaged and labeled for use by the consumer in accordance with the requirements of the statutes and regulations of this state and the federal government;

(15) "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy;

(16) "Pharmacist intern" means a natural person who is:

- (a) Currently certified by the board to engage in the practice of pharmacy under the direction of a licensed pharmacist and who satisfactorily progresses toward meeting the requirements for licensure as a pharmacist;
- (b) A graduate of an approved college or school of pharmacy or a graduate who has established educational equivalency by obtaining a Foreign Pharmacy Graduate Examination Committee (FPGEC) certificate, who is currently licensed by the board for the purpose of obtaining practical experience as a requirement for licensure as a pharmacist;
- (c) A qualified applicant awaiting examination for licensure as a pharmacist or the results of an examination for licensure as a pharmacist; or
- (d) An individual participating in a residency or fellowship program approved by the board for internship credit;

(17) "Pharmacy" means every place where:

- (a) Drugs are dispensed under the direction of a pharmacist;
- (b) Prescription drug orders are compounded under the direction of a pharmacist; or
- (c) A registered pharmacist maintains patient records and other information for the purpose of engaging in the practice of pharmacy, whether or not prescription drug orders are being dispensed;

(18) "Pharmacy technician" means a natural person who works under the immediate supervision, or general supervision if otherwise provided for by statute or administrative regulation, of a pharmacist for the purpose of assisting a pharmacist with the practice of pharmacy;

(19) "Practice of pharmacy" means interpretation, evaluation, and implementation of medical orders and prescription drug orders; responsibility for dispensing prescription drug orders, including radioactive substances; participation in drug and drug-related device selection***;***[~~,~~] administration of ***medications or biologics***[~~medication~~] in the course of dispensing or maintaining a prescription drug order***; the administration of adult immunizations pursuant to prescriber-approved protocols;***[~~, and~~] drug evaluation, utilization, or regimen review; maintenance of patient pharmacy records; and provision of patient counseling and those professional acts, professional decisions, or professional services necessary to maintain and manage all areas of a patient's pharmacy-related care, including pharmacy-related primary care as defined in this section;

(20) "Practitioner" has the same meaning given in KRS 217.015(35);

(21) "Prescription drug" means a drug which:

- (a) Under federal law is required to be labeled with either of the following statements:
  - 1. "Caution: Federal law prohibits dispensing without prescription"; or
  - 2. "Caution: Federal law restricts this drug to use by, or on the order of, a licensed veterinarian"; or
- (b) Is required by any applicable federal or state law or administrative regulation to be dispensed only pursuant to a prescription drug order or is restricted to use by practitioners;

(22) "Prescription drug order" means an original or new order from a practitioner for drugs, drug-related devices or treatment for a human or animal, including orders issued through collaborative care agreements. Lawful prescriptions result from a valid practitioner-patient relationship, are intended to address a legitimate medical need, and fall within the prescribing practitioner's scope of professional practice;

(23) "Pharmacy-related primary care" means the pharmacists' activities in patient education, health promotion, assistance in the selection and use of over-the-counter drugs and appliances for the treatment of common diseases and injuries as well as those other activities falling within their statutory scope of practice;

(24) "Society" means the Kentucky Society of Health-Systems Pharmacists;

(25) "Supervision" means the presence of a pharmacist on the premises to which a pharmacy permit is issued, who is responsible, in whole or in part, for the professional activities occurring in the pharmacy; and

(26) "Wholesaler" means any person who legally buys drugs for resale or distribution to persons other than patients or consumers.

Section 2. This Act shall be known as the Robert L. Barnett, Jr. R. Ph. Act.

The Committee on Judiciary reported **HB 22, HB 76**, with Committee Substitute attached thereto, **HB 108**, with Committee Substitute attached thereto, **HB 189, HB 228, HB 256, HB 257,** and **HB 269**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the

Calendar.

HB 22, AN ACT relating to the use of juries in competency hearings conducted in guardianship proceedings.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 387.570 is amended to read as follows:

(1) At a hearing convened pursuant to KRS 387.500 to 387.770 for the purpose of determining the disability of a respondent, the respondent shall~~[have a jury trial and shall]~~ have the right to present evidence and to confront and cross-examine all witnesses.

(2) The hearing may be closed to the public on request of the respondent or his counsel.

(3) The respondent shall be present at the hearing, and his presence may be waived only upon a determination of the court that his attendance would subject him to serious risk of harm. Such determination shall be evidence only of the respondent's inability to attend the hearing and shall not be considered in determining the need for guardianship or conservatorship.

(4) The court may remove itself to the place of residence of the respondent to conduct the hearing in the presence of the respondent.

(5) The burden of proof shall be on the Commonwealth to prove the disability or partial disability of the respondent by clear and convincing evidence.

(6) The respondent will not be determined partially disabled or disabled unless at least one (1) of the persons who participated in the interdisciplinary evaluation required by KRS 387.540 testifies in person at the hearing. This section shall not be interpreted to preclude the respondent from requiring the testimony of more than one (1) person participating in the preparation of the evaluation report.

(7) If demanded by or on behalf of any party, the hearing shall be by jury. Otherwise, the court may hold the hearing with or without a jury as the court may elect.

Section 2. KRS 387.580 is amended to read as follows:

(1) At a hearing convened under KRS 387.500 to 387.770 for a determination of partial disability or disability, the ***court, or the jury if one is impaneled,***~~[jury]~~ shall:

(a) Inquire into the nature and extent of the general intellectual functioning of the respondent;

(b) Inquire into the respondent's capacity to make informed decisions concerning his personal affairs and financial resources;

(c) Determine whether the respondent is disabled, partially disabled, or has no disability in relation to the management of his financial resources; and

(d) Determine whether the respondent is disabled, partially disabled, or has no disability in relation to the management of his personal affairs.

(2) If the respondent is found not to be disabled or partially disabled, the petition shall be dismissed.

(3) If the respondent is found to be disabled or partially disabled, the court shall, at the same hearing, without a jury, determine:

(a) The type of guardian or conservator to be appointed;

(b) The specific legal disabilities to which the respondent is subject, if the respondent has been determined to be partially disabled;

(c) The corresponding powers and duties of the limited guardian or limited conservator, if the respondent has been determined to be partially disabled;

(d) The individual or entity to be appointed by the court as limited guardian, guardian, limited conservator, or conservator;

(e) The individual or entity, if any, to be appointed as standby guardian or conservator; and

(f) The duration of the term of guardianship or conservatorship.

HB 76, AN ACT relating to adjustments to child support awards for shared parenting time.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Shared parenting order" means an order for child custody that grants each parent physical custody of a child for more than one hundred nine (109) days of parenting time per year; and

(b) "A day of parenting time" means that the parent has the responsibility and physical control of the child overnight.

(2) When one parent exercises more than one hundred nine (109) days of parenting time but less than one hundred and

forty-six (146) days of parenting time and that parent is the obligor under a child support award in the case, the court may adjust the presumptive child support award under KRS 403.212 if the court makes written findings as follows:

(a) An adjustment does not result in a child support award that provides insufficient funds to the household receiving support to meet the child's basic needs;

(b) The shared parenting order results in a reduction in the financial expenditures incurred by the obligee parent;

(c) The shared parenting order results in an increase in the financial expenditures incurred by the obligor;

(d) An adjustment in the child support award is in the best interest of the child; and

(e) An adjustment in the presumptive child support award is equitable under all of the facts and circumstances of the case.

(3) When there is a shared parenting order that grants one parent physical custody of a child for at least one-hundred and forty-six (146) days of parenting time, the court shall adjust the presumptive child support award if the court makes written findings as required under subsection (2) of this section.

(4) In a case under this section, the parent who is the obligor shall have the burden to prove by a preponderance of the evidence that all requirements under subsection (2) or (3) of this section are met before the court makes an adjustment to the presumptive child support award for shared parenting time.

(5) An adjustment to a child support award for shared parenting time under this section shall be calculated as follows:

(a) Compute the total child support obligation for the parents' combined incomes as determined under KRS 403.212. Multiply this amount by 1.5;

(b) Multiply each parent's percentage of combined monthly adjusted parental gross income by the result under paragraph (a) of this subsection;

(c) Multiply the results for each parent under paragraph (b) of this subsection by the percentage of days in one (1) year that each parent is granted physical custody of the child;

(d) Subtract the results under paragraph (c) of this subsection for each parent from the results under paragraph (b) of this subsection for each parent;

(e) Subtract the lesser amount calculated under paragraph (d) of this subsection from the greater amount calculated under paragraph (d) of this subsection; and

(f) Require the parent calculated to owe the greater amount under paragraph (d) of this subsection to pay the adjusted child support award amount calculated in paragraph (e) of this subsection to the other parent.

(6) The court shall use the child support worksheet that includes the formula to calculate a child support award adjusted for shared parenting time.

(7) An adjustment to a child support obligation shall not require a parent to pay more than the maximum child support award as determined under KRS 403.212.

(8) If a parent is awarded an adjustment to a child support obligation under this section and that parent does not comply with the shared parenting order, the court may, upon petition of the other parent, recalculate the child support award with no adjustment and award costs and attorneys fees for the recalculation to the appropriate parent.

The Committee Substitute to **HB 76** is as follows:

HB 76, AN ACT relating to adjustments to child support awards for shared parenting time.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Shared parenting order" means an order for child custody that grants each parent physical custody of a child for more than one hundred nine (109) days of parenting time per year; and

(b) "A day of parenting time" means that the parent has the responsibility and physical control of the child overnight.

(2) The provisions of this section shall not apply where the child or children subject to the child support award receive public assistance, including K-TAP, food stamps, or Medicaid.

(3) When one parent exercises more than one hundred nine (109) days of parenting time but less than one hundred and forty-six (146) days of parenting time and that parent is the obligor under a child support award in the case, the court may adjust the presumptive child support award under KRS 403.212 if the court makes written findings as follows:

(a) An adjustment does not result in a child support award that provides insufficient funds to the household receiving support to meet the child's basic needs;

(b) The shared parenting order results in a reduction in the financial expenditures incurred by the obligee parent;

(c) The shared parenting order results in an increase in the financial expenditures incurred by the obligor;

(d) An adjustment in the child support award is in the best interest of the child; and

(e) An adjustment in the presumptive child support award is equitable under all of the facts and circumstances of the case.

(4) When there is a shared parenting order that grants one parent physical custody of a child for at least one-hundred and forty-six (146) days of parenting time, the court shall adjust the presumptive child support award if the court makes written findings as required under subsection (2) of this section.

(5) In a case under this section, the parent who is the obligor shall have the burden to prove by a preponderance of the evidence that all requirements under subsection (2) or (3) of this section are met before the court makes an adjustment to the presumptive child support award for shared parenting time.

(6) An adjustment to a child support award for shared parenting time under this section shall be calculated as follows:

(a) Compute the total child support obligation for the parents' combined incomes as determined under KRS 403.212. Multiply this amount by 1.5;

(b) Multiply each parent's percentage of combined monthly adjusted parental gross income by the result under paragraph (a) of this subsection;

(c) Multiply the results for each parent under paragraph (b) of this subsection by the percentage of days in one (1) year that each parent is granted physical custody of the child;

(d) Subtract the results under paragraph (c) of this subsection for each parent from the results under paragraph (b) of this subsection for each parent;

(e) Subtract the lesser amount calculated under paragraph (d) of this subsection from the greater amount calculated under paragraph (d) of this subsection; and

(f) Require the parent calculated to owe the greater amount under paragraph (d) of this subsection to pay the adjusted child support award amount calculated in paragraph (e) of this subsection to the other parent.

(7) The court shall use the child support worksheet that includes the formula to calculate a child support award adjusted for shared parenting time.

(8) An adjustment to a child support obligation shall not require a parent to pay more than the maximum child support award as determined under KRS 403.212.

(9) If a parent is awarded an adjustment to a child support obligation under this section and that parent does not comply with the shared parenting order, on a consistent, repeated basis, the court may, upon petition of the other parent, recalculate the child support award with no adjustment and award costs and attorneys fees for the recalculation to the appropriate parent.

HB 108, AN ACT relating to the protection of unborn children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 507 IS CREATED TO READ AS FOLLOWS:

(1) As used in this chapter, the terms "person" and "human being" include an unborn child from viability onward, without regard to age, health, or condition of dependency.

(2) In a prosecution for the death of an unborn child, nothing in this chapter shall apply to acts of health care providers that cause the death of an unborn child if those acts were committed:

(a) During any abortion to which the woman has consented;

(b) Incident to an in vitro fertilization procedure; or

(c) As part of or incident to diagnostic testing or therapeutic medical treatment, provided that the health care provider exercised that degree of care and skill which an ordinarily careful, skilled, and prudent health care provider would exercise under the same or similar circumstances.

(3) Nothing in this chapter shall apply to any acts of a pregnant woman that caused the death of her unborn child.

(4) As used in this section:

(a) "Abortion" has the same meaning as in KRS 311.720;

(b) "Health care provider" has the same meaning as in KRS 304.17A-005; and

(c) "Viability: means that point in the development of a fetus when, as shown by competent medical proof based upon the particular facts of the case, there exists a reasonable likelihood of the fetus' sustained survival outside of the womb, with or without life support.

SECTION 2. A NEW SECTION OF KRS CHAPTER 532 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Health care provider" includes health care providers as defined in KRS 304.17A-005 and any other provider of health care required by the laws of the Commonwealth of Kentucky to be licensed or certified;

(b) "Miscarriage" means the interruption, before viability, of the normal development of the fetus, other than by a live birth or by an induced abortion to which the woman has consented, that results in the complete expulsion or extraction of the fetus from the pregnant woman;

(c) "Stillbirth" means the death, before viability, of a fetus prior to the complete expulsion or extraction from a woman, without regard to the duration of the pregnancy, that is not an induced abortion to which the woman has consented; and

(d) "Viability" means that point in the development of a fetus when, as shown by competent medical proof based upon the particular facts of the case, there exists a reasonable likelihood of the fetus' sustained survival outside the womb, with or without life support.

(2) A person who, in the commission of any felony offense or a violation of KRS 508.030, causes injury to a woman whom the person knows or should know to be pregnant, which injury results in a miscarriage or stillbirth by the woman, is guilty of an offense that is one class higher than the one committed. Where both this subsection and KRS 508.032 apply to the commission of an offense, the defendant shall be guilty of a Class D felony.

(3) Nothing in this section shall apply to:

(a) Acts of health care providers that result in miscarriage or stillbirth if those acts were committed:

1. During any abortion to which the woman has consented;

2. Incident to an in vitro fertilization procedure; or

3. As part of or incident to diagnostic testing or therapeutic medical treatment, provided that the health care provider exercised that degree of care and skill which an ordinarily careful, skilled, and prudent health care provider would exercise under the same or similar circumstances; or

(b) Acts of a pregnant woman that result in a miscarriage or stillbirth.

The Committee Substitute to **HB 108** is as follows:

HB 108, AN ACT relating to the protection of unborn children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 507A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) As used in this chapter:

(a) "Abortion" has the same meaning as in KRS 311.720;

(b) "Health care provider" has the same meaning as in KRS 304.17A-005; and

(c) "Unborn child" means a member of the species homo sapiens in utero from conception onward, without regard to age, health, or condition of dependency.

(2) In a prosecution for the death of an unborn child, nothing in this chapter shall apply to acts performed by or at the direction of a health care provider that cause the death of an unborn child if those acts were committed:

(a) During any abortion to which the woman has consented; or

(b) As part of or incident to diagnostic testing or therapeutic medical or fertility treatment, provided that the acts were performed with that degree of care and skill which an ordinarily careful, skilled, and prudent health care provider or a person acting under the provider's direction would exercise under the same or similar circumstances.

(3) Nothing in this chapter shall apply to any acts of a pregnant woman that caused the death of her unborn child.

SECTION 2. A NEW SECTION OF KRS CHAPTER 507A IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of fetal homicide in the first degree when:

(a) With intent to cause the death of an unborn child or with the intent necessary to commit an offense under KRS 507.020(1)(a), he causes the death of an unborn child; except that in any prosecution, a person shall not be guilty under this subsection if he acted under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant's situation under the circumstances as the defendant believed them to be. However, nothing contained in this section shall constitute a defense to a prosecution for or preclude a conviction of fetal homicide in the second degree or any other crime; or

(b) Including but not limited to the operation of a motor vehicle under circumstances manifesting extreme indifference to human life, he wantonly engages in conduct which creates a grave risk of death to an unborn child and thereby causes the death of an unborn child.

(2) Fetal homicide in the first degree is a capital offense.

SECTION 3. A NEW SECTION OF KRS CHAPTER 507A IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of fetal homicide in the second degree when:

(a) With intent to cause serious physical injury to an unborn child or with the intent necessary to commit an offense under KRS 507.030(1)(a), he causes the death of an unborn child; or

(b) With intent to cause the death of an unborn child or with the intent necessary to commit an offense under KRS 507.030(1)(b), he causes the death of an unborn child under circumstances which do not constitute fetal homicide in the first degree because he acts under the influence of extreme emotional disturbance, as defined in subsection (1)(a) of Section 2 of this Act.

(2) Fetal homicide in the second degree is a Class B felony.

SECTION 4. A NEW SECTION OF KRS CHAPTER 507A IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of fetal homicide in the third degree when he wantonly causes the death of an unborn child, including but not limited to situations where the death results from the person's operation of a motor vehicle.

(2) Fetal homicide in the third degree is a Class C felony.

SECTION 5. A NEW SECTION OF KRS CHAPTER 507A IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of fetal homicide in the fourth degree when, with recklessness, he causes the death of an unborn child.

(2) Fetal homicide in the fourth degree is a Class D felony.

SECTION 6. A NEW SECTION OF KRS CHAPTER 507A IS CREATED TO READ AS FOLLOWS:

The death of an unborn child shall not result in the imposition of a sentence of death, either as a result of the violation of Section 2 of this Act or as a result of the aggravation of another capital offense under KRS 532.025(2).

HB 189, AN ACT relating to court-appointed special advocate programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 620.500 is amended to read as follows:

As used in KRS 620.500 to 620.550*, unless the context otherwise requires*:

(1) *"Association" means the state Court-Appointed Special Advocate Association established in KRS 620.530;*

(2) "Court" means family court or, if there is no family court in the county where the CASA program is located, then District Court;

(3) "Court-appointed special advocate case" and "CASA case" mean a child or group of siblings who are within the jurisdiction of the court as a result of abuse, neglect, or dependency proceedings and for whom the court has appointed and the program director has assigned a CASA volunteer;

(4) "Court-appointed special advocate program" and "CASA program" mean a program by which trained community volunteers are provided to the court for appointment to represent the best interests of children who have come into the court system as a result of dependency, abuse, or neglect*;*[~~.~~]

(5)[~~(2)~~] "Court-appointed special advocate volunteer" and "CASA volunteer" mean a person who completes training through and is supervised by a CASA program and appointed by a judge to represent the best interests of dependent, abused, and neglected children in court*;*

(6) "Local board" means the local board of directors appointed or selected in accordance with Section 2 of this Act to govern local CASA programs;

(7) "Program director" means the director of each local CASA program selected in accordance with Section 2 of this Act;

(8) "State board" means the state board of directors elected in accordance with KRS 620.530; and

(9) "State director" means the director of the state association provided for in Section 6 of this Act

[~~(3) "CASA case" means a child or group of siblings who are within the jurisdiction of the court as a result of abuse, neglect, or dependency proceedings and for whom the court has appointed and the program director has assigned a CASA volunteer~~].

Section 2. KRS 620.505 is amended to read as follows:

(1) For the purpose of providing an independent, efficient, and thorough representation for children who enter the court system as a result of dependency, abuse, *or*[~~and~~] neglect, there may be established a court-appointed special advocate program by the *chief judge of family court or, if none, then by the* Chief District Judge[~~ or family court judge within each judicial district~~].

(2) Local CASA programs shall be governed by a local board of directors. For new CASA programs, the board shall initially be appointed by the *chief judge of family court or, if none, then by the* Chief District Judge[~~ or family court judge within each judicial district~~]. Members shall be selected by the existing board members thereafter. Each board shall include at least fifteen (15) members. Each board member shall have a demonstrated interest in child welfare issues and commitment to the purpose and role of the court-appointed special advocate volunteers. Cabinet employees shall not be eligible to serve as officers of the board. Members shall, as far as practicable, be representative of the racial and ethnic composition of the

area served by the CASA program. The board shall:

(a) Determine major personnel, organization, fiscal, and program policies including, but not limited to, the following:

1. Measures to be taken to safeguard the CASA program's information relating to children, their families, and the CASA volunteers;
2. The procedures for the recruitment, screening, training, and supervision of CASA volunteers; and
3. The procedure for and circumstances warranting dismissal of a CASA volunteer from the CASA program;

(b) Determine overall plans and priorities for the CASA program, including provisions for evaluating progress against performance;

(c) Approve the program budget;

(d) Enforce compliance with all conditions of all grants contracts;

(e) Determine rules and procedures for the governing board;

(f) Select the officers and the executive committee, if any, of the governing board;

(g) Meet at least four (4) times each year;

(h) Submit an annual report to the~~[state Court-Appointed Special Advocate]~~ association in the uniform manner required which shall include, but need not be limited to, the following information:

1. Number of CASA volunteers in the program;
2. Number of program staff;
3. Number of children served;
4. Number of volunteers receiving initial training;
5. Number of and topics for in-service training;~~[and]~~
6. ***The type of source of the funds received and the amount received from each type of source during the previous fiscal year;***
7. ***The expenditures during the previous year; and***
8. Other information as deemed appropriate.

(3) Local CASA programs shall comply with the National CASA Association ***and Kentucky CASA Association*** Standards for Programs. Local programs shall ensure that CASA volunteers are adequately supervised by providing at least one (1) supervisory staff person for every ***thirty (30)***~~[fifty (50) cases to which]~~ CASA volunteers ***that*** have been appointed by the court and assigned by the program director. Each local CASA program shall be managed by a qualified director whose service may be voluntary or who may be paid a salary. The program director's duties shall include:

(a) Administration of the CASA program as directed by the ***local and state boards***~~[governing board]~~;

(b) Recruitment, screening, training, and supervision of CASA volunteers and other program staff;

(c) Facilitation of the performance of the court-appointed special advocates' duties; and

(d) Ensuring that the security measures established by the ***local and state boards***~~[governing board]~~ for safeguarding the information relating to children, their families, and the CASA volunteers are maintained.

(4) CASA volunteers shall, as far as practicable, be representative of the socioeconomic, racial, and ethnic composition of the area served.

(5) CASA volunteers may be removed by the court for nonparticipation or other cause or by the program director pursuant to subsection (2) of this section.

(6) All written court-appointed special advocate reports submitted pursuant to KRS 620.525 shall become part of the cabinet's record of the child.

(7) Employees of the cabinet shall not become volunteers or employees of the court-appointed special advocate program.

(8) Each CASA volunteer, program director, and other program staff shall take an oath, administered by a member of the Court of Justice, to keep confidential all information related to the appointed case except in conferring with or reports to the court, parties to the case, the cabinet, the Citizen Foster Care Review Board, others designated by the court, and as provided by law.

(9) CASA volunteers shall be appointed by the presiding judge to represent the best interest of the child, subject to judicial discretion, and only after confirmation from the program director that the CASA volunteer has been properly screened and trained.

Section 3. KRS 620.510 is amended to read as follows:

(1) Secretarial and support services for each CASA program may be provided by the ***family court, the*** District Court***,***~~[or]~~ the circuit clerk, or ***a combination thereof***~~[both]~~, as ordered by ***the chief judge of family court or, if none, then by*** the Chief District Judge. The Administrative Office of the Courts may also provide secretarial and support services.

(2) CASA programs may receive private funds and local, state, and federal government funding to insure total or partial

funding of program activities.

Section 4. KRS 620.515 is amended to read as follows:

(1) A CASA volunteer shall meet the following minimum requirements:

(a) Be at least ***twenty-one (21)***[~~eighteen (18)~~] years of age;

(b) Be of good moral character;

(c) Complete a written application providing the names of at least three (3) references;

(d) Submit to a personal interview with program staff;

(e) Submit to a criminal record check; and

(f) Submit to a check of the child abuse and adult protection registry maintained by the cabinet.

(2) If found acceptable, ***then*** the applicant shall receive a minimum of ***thirty (30)***[~~fifteen (15)~~] hours of initial training and take an oath of confidentiality[~~ as~~] administered by a ***family court judge or, if none, then a*** District Judge.

(3) Training, both initial and in-service, of volunteers shall be provided by the program director or staff following standards adopted pursuant to KRS 620.535.

Section 5. KRS 620.520 is amended to read as follows:

(1) The ***clerk of the court***[~~District Court clerks~~] shall:

(a) Notify and provide a copy of all dependency, abuse, and neglect petitions to the program director, as soon as the court makes a referral to the program director for assignment of a CASA volunteer to the case;

(b) Provide a copy of all court orders issued pursuant to this section; and

(c) Notify the program director of all scheduled court hearings for cases to which a CASA volunteer has been assigned.

(2) Upon appointment by the court to represent a child, the CASA volunteer shall have access to all information and records pertaining to the child including, but not limited to, the records of the following entities: the cabinet; child-caring facilities operated or licensed by the cabinet; public and private schools; physical and mental health care providers; law enforcement agencies; and other entities deemed appropriate by the court.

(3) With court approval, the CASA volunteer may have access to information and records pertaining to the parents or persons exercising custodial control or supervision of the child assigned to the CASA volunteer, ***including*** information and records of the court***,***[~~;~~] the cabinet***,***[~~;~~] public and private child care facilities***,***[~~;~~] private and public schools***,***[~~;~~] and ***the*** medical and psychological records of the child assigned to the volunteer. The volunteer shall have access to the medical and psychological records of parents when the court determines that the information is essential to the welfare of the child and the court orders it.

Section 6. KRS 620.537 is amended to read as follows:

If the state ***board***[~~ Court-Appointed Special Advocate association or the Administrative Office of the Courts ~~]employs a full-time staff person to serve as the director of the[~~ state Court-Appointed Special Advocate~~] association ***then***:

(1) The state director shall be a person who by a combination of education, professional qualification, training, and experience is qualified to perform the duties of this position. The state director shall be of good moral character with at least two (2) years of experience working in a position managing a human services program and who has received a:

(a) Master's degree in social work, sociology, psychology, guidance and counseling, education, criminal justice, or other human service field; or

(b) Baccalaureate degree in social work, sociology, psychology, guidance and counseling, education, criminal justice, or other human service field with, in addition to the work experience required in this subsection, at least two (2) more years of experience working in the human services field***.***[~~; and~~]

(2) The duties of the state director shall be:

(a) To manage the state court-appointed special advocate office, including staff;

(b) To coordinate the activities of the[~~ state Court-Appointed Special Advocate~~] association;

(c) To monitor the policies and practices of local CASA programs for compliance with state laws, National CASA Association Standards for Programs, and reporting requirements established by the state association; to assist local CASA programs in efforts to achieve compliance; and to report to the state association the status of compliance by local CASA programs;

(d) Upon request of local CASA programs, to provide technical assistance to local CASA programs;

(e) To provide technical assistance and support to ***chief judges of family courts,*** Chief District Judges***,*** and others in development of new local CASA programs;

(f) To coordinate a statewide public awareness campaign for generating interest in developing new CASA programs, recruiting volunteers, and informing the public of the issues concerning child abuse and neglect; and

(g) Other duties as directed by the[~~ state Court Appointed Special Advocate~~] association.

Section 7. KRS 620.540 is amended to read as follows:

(1) Secretarial and support services for the ***state***[~~association~~] board may be provided by the Administrative Office of the Courts.

(2) The association may receive private funds, and local, state, and federal government funds to financially assist existing local ***CASA*** programs, assist local efforts to start a ***CASA*** program, or other activities deemed appropriate by the association.

HB 228, AN ACT relating to correctional facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

(1) When an inmate desires to have an approved visitor the inmate shall submit a visitor request form containing the name and address of the proposed visitor for approval to the warden or the warden's designee in writing accompanied by:

- *(a) A stamped envelope bearing the name and address of the proposed visitor; and*
- *(b) A stamped envelope for use by the proposed visitor bearing the name and address of the warden or the warden's designee; and such other information as may be required by administrative regulation.*

(2) Upon receipt of the request form accompanied by the addressed envelopes and required postage, the warden or the warden's designee shall send the envelopes and the request form to the proposed visitor so that the visitor may return the form with a social security number and other information required by administrative regulation to the warden.

(3) Upon receipt of the visitor request form the visitor shall, if the visitor desires to be added to the approved visitor list for the named inmate, return the form with the required information to the warden or warden's designee.

(4) Upon return of the visitor request form to the warden or warden's designee with the required information, the warden or warden's designee shall complete the required investigation of the visitor and notify the inmate in writing of approval or disapproval of the visitor request.

(5) At no time shall the warden or warden's designee supply to the inmate the proposed visitor's social security number or other information supplied by the visitor on the visitor request form nor shall the warden or warden's designee permit the inmate to request the proposed visitor's social security number other than name and address.

(6) If an inmate is indigent, the warden may authorize the state payment for envelopes and postage in the same manner as for other items supplied to an indigent inmate.

(7) If a state inmate is confined in a county jail then the jailer or the jailer's designee shall perform the duties required of the warden or the warden's designee.

HB 256, AN ACT relating to corporations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 271B.6-220 is amended to read as follows:

(1) A purchaser from a corporation of its own shares shall not be liable to the corporation or its creditors with respect to the shares except to pay the consideration for which the shares were authorized to be issued or specified in the subscription agreement.

(2) Unless otherwise provided in the articles of incorporation, a shareholder of a corporation shall not be personally liable for the acts or debts of the corporation except that he ***or she*** may become personally liable by reason of his ***or her*** own acts or conduct.

HB 257, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 507.030 is amended to read as follows:

(1) A person is guilty of manslaughter in the first degree when:

- (a) With intent to cause serious physical injury to another person, he ***or she*** causes the death of ***that***[~~such~~] person or of a third person; or
- (b) With intent to cause the death of another person, he ***or she*** causes the death of ***that***[~~such~~] person or of a third person under circumstances which do not constitute murder because he ***or she*** acts under the influence of extreme emotional disturbance, as defined in subsection (1)(a) of KRS 507.020.

(2) Manslaughter in the first degree is a Class B felony.

HB 269, AN ACT relating to child support.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 403.213 is amended to read as follows:

(1) The Kentucky child support guidelines may be used by the parent, custodian, or agency substantially contributing to the support of the child as the basis for periodic updates of child support obligations and for modification of child support orders for health care. The provisions of any decree respecting child support may be modified only as to installments accruing subsequent to the filing of the motion for modification and only upon a showing of a material change in circumstances that is substantial and continuing.

(2) Application of the Kentucky child support guidelines to the circumstances of the parties at the time of the filing of a motion or petition for modification of the child support order which results in equal to or greater than a fifteen percent (15%) change in the amount of support due per month shall be rebuttably presumed to be a material change in circumstances. Application which results in less than a fifteen percent (15%) change in the amount of support due per month shall be rebuttably presumed not to be a material change in circumstances. For the one (1) year period immediately following enactment of this statute, the presumption of material change shall be a twenty-five percent (25%) change in the amount of child support due rather than the fifteen percent (15%) stated above.

(3) Unless otherwise agreed in writing or expressly provided in the decree, provisions for the support of a child shall be terminated by emancipation of the child unless the child is a high school student when he reaches the age of eighteen (18). In cases where the child becomes emancipated because of age, but not due to marriage, while still a high school student, the court-ordered support shall continue while the child is a high school student, but not beyond completion of the school year during which the child reaches the age of nineteen (19) years. ***The court may order the continuation of child support beyond the age of emancipation for a child whom the court determines to be mentally ill within the meaning of KRS Chapter 202A or KRS Chapter 645, mentally retarded within the meaning of KRS Chapter 202B, or incompetent within the meaning of KRS Chapter 387.*** Provisions for the support of the child shall not be terminated by the death of a parent obligated to support the child. If a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump-sum payment, to the extent just and appropriate in the circumstances. Emancipation of the child shall not terminate the obligation of child support arrearages that accrued while the child was an unemancipated minor.

(4) The child support guidelines table shall be reviewed at least once every four (4) years by a commission consisting of the following persons:

(a) The secretary of the Cabinet for Families and Children or a supervisory staff person designated by him;

(b) Two (2) members of the Kentucky Bar Association who have at least six (6) consecutive years' experience and are presently practicing domestic relations cases, one (1) member from a metropolitan or large urban area and one (1) member from a less populated area;

(c) Two (2) Circuit Judges appointed by the Chief Justice of the Kentucky Supreme Court, one (1) from a metropolitan or large urban area, and one (1) from a less populated area;

(d) One (1) District Judge appointed by the Chief Justice of the Kentucky Supreme Court;

(e) Two (2) county attorneys appointed by the president of the County Attorneys Association, one (1) from a metropolitan or large urban area and one (1) from a less populated area;

(f) The Attorney General or his designee, who shall be an attorney from his office;

(g) One (1) person who is a custodial parent;

(h) One (1) person who is a noncustodial parent;

(i) One (1) person who is a parent with split custody; and

(j) One (1) child advocate.

The members designated in paragraphs (g) to (j) of this subsection shall be appointed by the Governor from a list of three (3) names for each category submitted by the Cabinet for Families and Children. If the status of one (1) of these members changes, the member shall be replaced through appointment by the Governor from a list of three (3) names submitted by the cabinet.

(5) The commission shall make a recommendation to the Kentucky General Assembly to ensure that the child support guidelines table results in a determination of appropriate child support amounts.

The Committee Amendment No. 1 to **HB 269** is as follows:

HB 269, On page 2, line 4 delete "***incompetent***", and insert in lieu thereof "***disabled***".

Calendar

HB 301, HCR 63, HB 21, 253, 273, 258, 8, 11, 15, 106, 263, and **295** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Senate Message

Announcing passage **SJR 3**. (Time: 2:10 p.m.)

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order. Representative Adkins moved that the rules be suspended for a Rules Committee report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 15, 21, 253, 263, 273, 295, 301, HCR 63, HB 109, 116,** and **HCR 8** have been posted for passage in the Regular Orders of the Day for January 29, 2004.

Orders of the Day

HCR 16 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved that **HCR 16** be adopted.

On the roll call the vote was: **Yeas 95, Nays 0**. (See January 28, 2004, roll call on **HCR 16** - Appendix.)

HCR 16 was adopted.

Representative L. Clark moved that the vote by which **HCR 16** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 72, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of the Committee Substitute to **HB 72**. Agreed.

Representative Marzian moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 72**. Agreed.

Representative Marzian moved that **HB 72**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See January 28, 2004, roll call on **HB 72** - Appendix.)

HB 72, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 72**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 159 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stein moved that **HB 159** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See January 28, 2004, roll call on **HB 159** - Appendix.)

HB 159 was passed and the title agreed to.

Representative Stein moved that the vote by which **HB 159** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 160, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved that **HB 160**, be passed.

On the roll call the vote was: **Yeas 81, Nays 10**. (See January 28, 2004, roll call on **HB 160** - Appendix.)

HB 160, was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 160**, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 286, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Arnold moved the adoption of Floor Amendment No. 1 to **HB 286**. Agreed.

Representative J. Arnold moved that **HB 286**, as amended, be passed.

On the roll call the vote was: **Yeas 81, Nays 6**. (See January 28, 2004, roll call on **HB 286** - Appendix.).

HB 286, as amended, was passed and the title agreed to.

Representative J. Arnold moved that the vote by which **HB 286**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 287 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Arnold moved that **HB 287** be passed.

On the roll call the vote was: **Yeas 83, Nays 11**. (See January 28, 2004, roll call on **HB 287** - Appendix.)

HB 287 was passed and the title agreed to.

Representative J. Arnold moved that the vote by which **HB 287** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 26 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HCR 26** be adopted.

On the roll call the vote was: **Yeas 96, Nays 0**. (See January 28, 2004, roll call on **HCR 26** - Appendix.)

HCR 26 was adopted.

Representative Adkins moved that the vote by which **HCR 26** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 36 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HCR 36** be adopted.

On the roll call the vote was: **Yeas 95, Nays 0.** (See January 28, 2004, roll call on **HCR 36** - Appendix.)

HCR 36 was adopted.

Representative Adkins moved that the vote by which **HCR 36** was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative P. Clark moved the adoption of the following **HR 93**:

HR 93, A RESOLUTION adjourning the House of Representatives in honor of the Reverend Terry L. Sammons upon the occasion of his retirement on December 31, 2003.

WHEREAS, Terry L. Sammons is a native of Louisville, Jefferson County, Kentucky; he is the devoted husband of Betty Benningfield Sammons; and he is the loving father of Todd, Jeffrey, and Tamara; and

WHEREAS, Terry L. Sammons attended the University of Louisville, and he received his seminary training at the Louisville Southern Baptist Theological Seminary; and

WHEREAS, at age 16, Terry L. Sammons became a choir director; he continued to serve in churches as youth director and/or minister of music for 18 years; he answered his call to the pastorate, and led the congregations of Warren Woods Baptist Church from 1974-1982; Auburndale Baptist Church from 1982-1984; and New Heights Baptist Church from 1984 through 2003; and

WHEREAS, during his 47 years in the ministry, Terry L. Sammons has dedicated his life to Christianity and committed to teaching the Word of God; he has been admired for his guidance and wisdom, and the congregations he has served through the years have indeed been blessed to receive the peace and joy and kindness and generosity that Terry L. Sammons has so lovingly given; and

WHEREAS, Terry L. Sammons retired from the ministry on December 31, 2003; and the congregation of New Heights Baptist Church will be hosting a pastor's retirement celebration in his honor on January 31, 2004 at the Executive Inn West in Louisville, where they will express their deep appreciation to him for the many years he shepherded their flock;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives is indeed honored to recognize the Reverend Terry L. Sammons upon the occasion of his retirement on December 31, 2003. We thank him for his many contributions to the citizens of this Commonwealth, and wish him success in all future endeavors.

Section 2. When the House of Representatives adjourns this day, it does so in honor of the Reverend Terry L. Sammons upon the occasion of his retirement from the ministry on December 31, 2003.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Perry Clark for presentation to the Reverend Terry L. Sammons.

There being no objection, **HR 93** was adopted.

Representative Baugh moved the adoption of the following **Legislative Citation No. 16**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory and honor of Woodrow Piper "Winky" Sosh of Russellville, Kentucky, and joins with Representative Sheldon Baugh in expressing deepest sympathy to the Sosh Family and all who share in the profound loss on the passing of this esteemed citizen. The son of the late Lon Sosh, Sr., and Lena Whittaker Sosh, he was preceded in death by brothers, George and Lon. He is survived by his beloved wife, Emily Hall Sosh; children, Lon, Ann, and Jean; grandchildren, Christie, Londa, Shannon, Amy, MegAnn, John, and Ann; five great-grandchildren; and, a host of other family members, friends and loved ones. The respected former owner of WRUS AM/FM Radio Stations and of Cablevision in Russellville, Mr. Sosh is credited with the widespread success of these radio stations, having brought a delightful mix of local news, public service, and entertainment, as well as such beloved radio characters as Gene Locke, Don T, and his own son, known as Big Daddy Bob Alou, among many others, to the airwaves. In addition, through his vision, ambition, and outstanding leadership of Cablevision, the wonders of cable television were made available to the citizens of the Logan County and Russellville communities, helping to bring this region in step with a new era of technology established after World War II. Mr. Sosh also lent his assistance to the Tobacco Festival and was an active member of the Chamber of Commerce, the Lions Club, and the First Baptist Church. This esteemed citizen, known throughout his community and this Commonwealth as one who supported progressive social and economic change at every turn, is remembered on this day for the many and generous contributions he made to his family and community. Winky Sosh will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, Kentucky, this twenty-eighth day of January, in the year two thousand and four.

Legislative Citation No. 16 was adopted without objection.

Representative Nelson moved the adoption of the following **HR 99**:

HR 99, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Mason Slusher.

With deepest respect and admiration, we pay homage and tribute to Mason Slusher, and we pause in silent reverence for his soul.

WHEREAS, Mason Slusher was born on January 22, 1907, a native of Beverly, Bell County, Kentucky, and he traversed these earthly bounds on January 24, 2004; and

WHEREAS, Mason Slusher was the loving son of the late James and Sarah Taylor Slusher; he was the devoted husband of the late Sarah Lawson Slusher; and he was also preceded in passing by two loving sons, Mason Slusher Jr. and Silas "Punkin" Slusher, and a loving son-in-law, the Reverend Doyle Taylor; and

WHEREAS, Mason Slusher was the loving father of Dr. Eugene and Mellana Slusher of Lexington, Opal L. and Roy Sims of Southern Pines, North Carolina, Delia Taylor of Hulen, and Donnie Arnett of Pineville; he was the proud grandfather of 18 grandchildren; the proud great-grandfather of 24 great-grandchildren; and the proud great-great- grandfather of four great-great-grandchildren; and he also leaves behind two loving daughters-in-law, Freda and Margie Slusher, both of Beverly; and

WHEREAS, Mason Slusher was an esteemed member of the Bell County community, where he was an active and involved citizen, and where he was a member of the Primitive Baptist Church; he was a graduate of Union College in Barbourville; he was a retired teacher and a past principal of Crockett Elementary School; he served as bookkeeper for Round Mountain Coal Company, and he had a grocery business in Beverly; and

WHEREAS, Mason Slusher was actively involved in the Democrat Party, and he represented his constituents from Legislative District 88 in Bell County with pride and honesty in the Kentucky House of Representatives during the 1960 and 1962 legislative sessions; and during his tenure in the Kentucky General Assembly, he was an early supporter of mandatory education, making education available to as many people as possible; and

WHEREAS, the passing of Mason Slusher has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow at the passing of Mason Slusher, and extends to his family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Mason Slusher.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Dr. Eugene and Mellana Slusher, 3581 Gloucester Street, Lexington, Kentucky 40510-9758.

There being no objection, **HR 99** was adopted.

Representative L. Clark moved the adoption of the following **HR 101**:

HR 101, A RESOLUTION adjourning the House of Representatives in honor of Jamie Jo Franklin upon the occasion of her fiftieth birthday on January 28, 2004.

WHEREAS, Jamie Jo Franklin was born on January 28, 1954, and she is a native of Paintsville, Johnson County, Kentucky; and

WHEREAS, Jamie Jo Franklin is the loving daughter of Blanche Barber Daniel and the late Jimmie George Daniel; she is the devoted wife of Jon Michael Franklin and the loving mother of two children, Lorin Elizabeth Franklin and Michael Killen "Kile" Franklin; and

WHEREAS, Jamie Jo Franklin graduated from Paintsville Independent High School, and she received her bachelor's degree in political science from the University of Kentucky; and

WHEREAS, Jamie Jo Franklin, having brought with her a wealth of experience from the Department of Local Government, first graced these hallowed halls on June 16, 1981 as a legislative analyst for the Committee on Cities, where she was promoted to Committee Staff Administrator on March 1, 1987, and she now serves as Committee Staff Administrator for the Committee on Local Government; and

WHEREAS, as a staff member of the Legislative Research Commission, Jamie Jo Franklin has approached every assignment with logic, creativity, and thoroughness; she has made many valuable contributions and provided excellent nonpartisan support to the members of the General Assembly; as Committee Staff Administrator for the Committee on Local Government, her intelligence and resourcefulness was evidenced in the drafting of the Louisville-Jefferson County merger legislation; she is the block grant coordinator for all block grants coming before the General Assembly for review; and during legislative sessions, she reviews all bills that require local mandates; and

WHEREAS, also as a staff member of the Legislative Research Commission, Jamie Jo Franklin brings with her a lightness of spirit and joy of living that benefits the institution, as well as all who have contact with her; and

WHEREAS, Jamie Jo Franklin's capacity for compassion and her willingness to listen makes her a necessary and integral staff member, as well as a friend; and

WHEREAS, Jamie Jo Franklin has earned the highest respect and admiration of legislators on both sides of the aisle in both Chambers of the Kentucky General Assembly for her dedication and expertise in legislative matters; and

WHEREAS, Jamie Jo Franklin is celebrating her fiftieth birthday on January 28, 2004;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby esteem it to be an honor and a privilege to recognize Jamie Jo Franklin upon the occasion of her fiftieth birthday on January 28, 2004, and we wish her continued success at the Legislative Research Commission.

Section 2. In honor of the occasion of the fiftieth birthday of Jamie Jo Franklin, Representative Larry Clark would like to invite the members of this august body, upon adjournment, to join him in the Speaker Pro Tem's office for cake and punch.

Section 3. When the House of Representatives adjourns this day, January 28, 2004, it does so in honor of Jamie Jo Franklin.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Larry Clark for presentation to Jamie Jo Franklin.

There being no objection, **HR 101** was adopted.

On the roll call for co-sponsors the vote was: **Yeas 90.** (See January 28, 2004, roll call to show co-sponsors on **HR 101** - Appendix.)

Motions, Petitions, and Communications (Continued)

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 390, by Representatives Napier and Turner: AN ACT relating to criminal law.

HB 391, by Representatives Miller, Siler, Horlander, Hall, L. Clark, Wayne, Riggs, and Marzian: AN ACT relating to Kentucky Retired Teachers' Retirement System.

HB 392, by Representatives Damron, Weaver, and Ballard: AN ACT relating to the Capital City Airport.

HB 393, by Representatives B. Smith and Cornett: AN ACT relating to handicap access at state-owned marinas.

HB 394, by Representative B. Smith: AN ACT relating to school district employees.

HB 395, by Representative Hoover: AN ACT relating to appropriations and revenue measures providing financing for the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state-supported activities.

HB 396, by Representative Moberly: AN ACT making appropriations for the operations, maintenance, support, and functioning of the judicial branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state-supported activities.

HB 397, by Representative Moberly: AN ACT making appropriations for the operations, maintenance, and support of the legislative branch of the Commonwealth of Kentucky.

HB 398, by Representatives Horlander, A. Arnold, P. Clark, Barrows, Bruce, Hoffman, Gray, Bratcher, Reinhardt, and Marzian: AN ACT relating to school board elections.

HCR 102, by Representatives S. Lee and Harmon: A CONCURRENT RESOLUTION petitioning the United States Congress to propose an amendment to the Constitution of the United States, for submission to the several States, to provide for Christmas as a national holiday.

HJR 103, by Representative Hoover: A JOINT RESOLUTION relating to the budget process and declaring an emergency.

HJR 104, by Representative Moberly: A JOINT RESOLUTION relating to the budget process and declaring an emergency.

HJR 105, by Representative Moberly: A JOINT RESOLUTION relating to the budget process and declaring an emergency.

HCR 106, by Representatives Denham and Richards: A CONCURRENT RESOLUTION urging transmission-owning utilities to work cooperatively to improve transmission-related reliability with the least amount of impact to agricultural landowners in the Commonwealth.

Motions, Petitions, and Communications (Continued)

Representative Nesler moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Nesler moved that he be recorded as voting "yea" on **HCR 16**. Agreed.

Representative Higdon moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Higdon moved that he be recorded as voting "abstain " on **HB 72**. Agreed.

Representative Higdon moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Higdon moved that he be recorded as voting "yea" on **HB 281, 344, 131, HCR 22,** and **HJR 64**. Agreed.

Representative Reinhardt moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" on **HB 89, 208, HCR 27, 35,** and **87**. Agreed.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 15**, by Representative Nunn:

HB 15, On page 1, line 4, before the word "***agency***" by inserting the word "***same***".

Floor Amendment No. 1 to the Committee Substitute to **HB 108**, by Representative Hoffman:

HB 108, On page 3, after line 14, by inserting the following:

"Section 7. Whereas current criminal law leaves unborn children outside of its coverage, and unborn children are in dire need of that coverage, an emergency is declared to exist and this Act shall take effect upon signature of the Governor or upon its otherwise becoming law."

Floor Amendment No. 2 Title to **HB 108**, by Representative Hoffman:

HB 108, By amending the title to read as follows: "AN ACT relating to the protection of unborn children and declaring an emergency."

Floor Amendment No. 3 to the Committee Substitute to **HB 108**, by Representative Damron:

HB 108, On page 1, line 12, by deleting same and inserting in lieu thereof the following:

"***(a) During any abortion for which the consent of the pregnant woman has been obtained or for which the consent is implied by law in a medical emergency; or***".

Floor Amendment No. 4 to the Committee Substitute to **HB 108**, by Representative S. Lee:

HB 108, On page 3, lines 10 to 14, by deleting Section 6 in its entirety.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolution:

HB 3, Representative Baugh

HB 100, Representative Ballard

HB 108, Representatives Ballard and Webb

HB 113, Representative Ballard

HB 125, Representative Montell

HB 170, Representative Baugh

HB 171, Representative Baugh

HB 185, Representative Hall

HB 193, Representatives Palumbo and T. Thompson

HB 225, Representative Ballard

HB 309, Representative Nelson

HB 341, Representatives Weaver, Dw. Butler, and Horlander

HB 362, Representative Horlander

HB 392, Representative Belcher

HCR 16, Representatives Hall and Hoffman

Announcements

The following meetings were announced:

Committee on Transportation - Thursday, January 29, 2004, 10:00 a.m.

Committee on Agriculture and Small Business - Thursday, January 29, 2004, 12:30 p.m.

Committee on Elections, Constitutional Amendments, and Intergovernmental Relations - Thursday, January 29, 2004

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 2:00 p.m., Thursday, January 29, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 2:00 p.m., Thursday, January 29, 2004, was adopted by voice vote.

THURSDAY, JANUARY 29, 2004

SEVENTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Dr. Chris Beckham, Flemingsburg Baptist Church, Flemingsburg, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives J. Adams and Bather.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 28, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Harmon moved that the rules be suspended to grant floor privileges and to act on a Legislative Citation. Agreed.

Representative Harmon moved the adoption of the following **Legislative Citation No. 17**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to the members of the Danville High School Admirals Football Team 2003 KHSAA Class A State Champions for their phenomenal athletic performance during the 2003 season that has resulted in this talented assemblage of athletes capturing their third Class A state title in the last four years and finishing the season with an extraordinary record of 14-1. Inasmuch as the members of this celebrated team, under the capable leadership of Head Coach Sam Harp, have enjoyed an outstanding year and have added yet another monument of success to an already extraordinary legacy of athletic achievement, the members of this distinguished body are delighted to join Representative Mike Harmon in commending the members and coaching staff of the Danville High School Admirals Football Team for their tremendous accomplishments and in extending best wishes for continued success and good fortune. Done in Frankfort, Kentucky, this twenty-ninth day of January, in the year two thousand and four.

Legislative Citation No. 17 was adopted without objection.

Senate Message

Announcing passage **SB 14, 47, 55,** and **63**. (Time: 2:10 p.m.)

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

The Speaker ruled that the House continue with ordinary business.

Introduction of Bills and Resolutions

HB 399, by Representatives A. Smith, Stacy, and Nesler: AN ACT relating to the registration of motor vehicles.

HB 400, by Representatives T. Thompson and Weaver: AN ACT relating to vital statistics.

HB 401, by Representative Napier: AN ACT relating to attorneys.

HB 402, by Representative Napier: AN ACT relating to the discharge of liens.

HB 403, by Representative Westrom: AN ACT relating to employment.

HB 404, by Representative Burch: AN ACT relating to agricultural uses of land.

HB 405, by Representative Nunn: AN ACT relating to performance bond limitations.

HJR 107, by Representatives Meeks, Jenkins, L. Clark, Horlander, Marzian, Miller, Graham, Wayne, and Burch: A JOINT RESOLUTION naming Interstate 65 in Jefferson County in honor and memory of Dr. Martin Luther King, Jr.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 395, 396, 397, HJR 103, 104, 105**

Education: **HB 391, 394, 398**

Elections, Constitutional Amendments, and Intergovernmental Relations: **HCR 102**

Judiciary: **HB 390**

Natural Resources and Environment: **SJR 3**

Seniors, Military Affairs, and Public Safety: **HB 392**

Tourism Development and Energy: **HB 393, HCR 106**

House Floor: **HR 100**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Banking and Insurance: **HB 372**

Report of Committees

The Committee on Health and Welfare reported **HB 74, HB 90,** with Committee Substitute attached thereto, **HB 100,** with Committee Substitute attached thereto, **HB 260,** with Committee Substitute attached thereto, **HB 322,** and **HCR 78,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 74, AN ACT relating to Myositis Awareness Day.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 2.135 is amended to read as follows:

(1) May 7 of each year is named and declared to be "Barrier Awareness Day" throughout the Commonwealth.

(2) August 2 of each year is named and declared to be "Disability Day" throughout the Commonwealth.

(3) September 21 of each year is named and declared to be "Myositis Awareness Day" throughout the Commonwealth.

HB 90, AN ACT relating to children's psychiatric residential treatment facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216B.450 is amended to read as follows:

As used in this section and KRS 216B.455:

(1) "Cabinet" means the Cabinet for Health Services;

(2) "Community-based" means a facility that is located in an existing residential neighborhood or community;

(3) "Home-like" means a residence with living space designed to accommodate the daily living needs and tasks of a family unit, with opportunity for adult-child communication, shared tasks, adult-child learning, congregate meals, and family-type routines appropriate to the ages and levels of functioning of the residents; and

(4) "Psychiatric residential treatment facility" means a licensed, community-based, and home-like facility with a maximum of ***nine (9)***[~~eight (8)~~] beds which provides inpatient psychiatric residential treatment to residents who have an emotional disability or severe emotional disability as defined in KRS 200.503, age six (6) years to twenty-one (21) years with an age range of no greater than five (5) years in a living unit.

Section 2. KRS 216B.455 is amended to read as follows:

(1) A certificate of need shall be required for all psychiatric residential treatment facilities. The application for a certificate of need shall include formal written agreements of cooperation that identify the nature and extent of the proposed working relationship between the proposed psychiatric residential treatment facility and each of the following agencies, organizations, or facilities located in the service area of the proposed facility:

(a) Regional interagency council for children with emotional disability or severe emotional disability as defined in KRS 200.509;

(b) Department for Community Based Services;

(c) Local school districts;

(d) Psychiatric hospitals; and

(e) Any other agency, organization, or facility deemed appropriate by the cabinet.

(2) All psychiatric residential treatment facilities shall comply with the licensure requirements as set forth in KRS 216B.105.

(3) All psychiatric residential treatment facilities shall be certified by the Joint Commission on Accreditation of Healthcare Organizations, or the Council on Accreditation, or any other accrediting body with comparable standards that is recognized by the state.

(4) A psychiatric residential treatment facility shall not be located in or on the grounds of a psychiatric hospital. ***More than one (1) freestanding psychiatric residential treatment facility may be located on the same campus that is not in or on the grounds of a psychiatric hospital.***

(5) The total number of psychiatric residential treatment facility beds shall not exceed ***three hundred and twenty-four (324) beds statewide, and shall be distributed among the state mental hospital districts established by administrative regulations promulgated by the Cabinet for Health Services under KRS 210.300 as follows:***

(a) District I for seventy-two (72) beds;

(b) District II for eighty-one (81) beds;

(c) District III for one hundred seventeen (117) beds; and

(d) District IV for fifty-four (54) beds[~~sixteen (16) beds in any area development district with less than 275,000 population; thirty-two (32) beds in any area development district with 275,000 to 550,000 population; and forty-eight (48) beds in any area development district with over 550,000 population~~].

(6) (a) The Cabinet for Health Services and the Cabinet for Families and Children shall investigate the need for children's psychiatric residential treatment services for specialized populations including, but not limited to, sexual offenders, children with physical and developmental disabilities, and children with dual diagnoses.

(b) The cabinets shall report to the Governor and the Legislative Research Commission by August 1, 2005, on a plan to enable children with specialized needs to be served in community-based psychiatric residential treatment facilities in Kentucky. The plan shall include methods to:

1. Identify the specialized populations;

2. Develop services targeted for the specialized populations; and

3. Establish a Medicaid reimbursement rate for specialized facilities in Kentucky.

Section 3. KRS 216B.459 is amended to read as follows:

The rate of reimbursement for Medicaid eligibles residing in ***nine (9)***[~~eight (8)~~] bed psychiatric residential treatment facilities shall not exceed the rate of reimbursement for Medicaid eligibles residing in ***eighteen (18)***[~~sixteen (16)~~] bed psychiatric residential treatment facilities.

The Committee Substitute to **HB 90** is as follows:

HB 90, AN ACT relating to children's psychiatric residential treatment facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216B.450 is amended to read as follows:

As used in this section and KRS 216B.455:

(1) "Cabinet" means the Cabinet for Health Services;

(2) "Community-based" means a facility that is located in an existing residential neighborhood or community;

(3) ***"Freestanding" means a completely detached building or two (2) residences under one (1) roof that are clearly separate and can serve youth independently.***

(4) "Home-like" means a residence with living space designed to accommodate the daily living needs and tasks of a family unit, with opportunity for adult-child communication, shared tasks, adult-child learning, congregate meals, and family-type routines appropriate to the ages and levels of functioning of the residents; and

(5)[~~(4)~~] "Psychiatric residential treatment facility" means a licensed, community-based, and home-like facility with a maximum of ***nine (9)***[~~eight (8)~~] beds which provides inpatient psychiatric residential treatment to residents ***age six (6) to twenty-one (21) years*** who have an emotional disability or severe emotional disability as defined in KRS 200.503,[~~ age six (6) years to twenty-one (21) years~~] with an age range of no greater than five (5) years ***at the time of admission*** in a living unit.

Section 2. KRS 216B.455 is amended to read as follows:

(1) A certificate of need shall be required for all psychiatric residential treatment facilities. The application for a certificate of need shall include formal written agreements of cooperation that identify the nature and extent of the proposed working

relationship between the proposed psychiatric residential treatment facility and each of the following agencies, organizations, or facilities located in the service area of the proposed facility:

(a) Regional interagency council for children with emotional disability or severe emotional disability as defined in KRS 200.509;

(b) Department for Community Based Services;

(c) Local school districts;

(d) *At least one (1)* psychiatric *hospital*[~~hospitals~~]; and

(e) Any other agency, organization, or facility deemed appropriate by the cabinet.

(2) *Any eight (8) bed or sixteen (16) bed psychiatric residential treatment facility licensed and operating or holding an approved certificate of need on the effective date of this Act that applies to increase the number of beds permitted by Section 1 of this Act shall be granted a nonsubstantive review of the certificate of need application as provided under KRS 216B.095.*

(3) An entity with an approved certificate of need that does not open or operate a psychiatric treatment facility within two (2) years of the date of the certificate of need approval shall be required to resubmit the certificate of need application and shall not be granted a nonsubstantive review of the application.

(4) All psychiatric residential treatment facilities shall comply with the licensure requirements as set forth in KRS 216B.105.

(5)[~~(3)~~] All psychiatric residential treatment facilities shall be certified by the Joint Commission on Accreditation of Healthcare Organizations, or the Council on Accreditation, or any other accrediting body with comparable standards that is recognized by the state.

(6)[~~(4)~~] A psychiatric residential treatment facility shall not be located in or on the grounds of a psychiatric hospital. *More than one (1) freestanding psychiatric residential treatment facility may be located on the same campus that is not in or on the grounds of a psychiatric hospital.*

(7)[~~(5)~~] The total number of psychiatric residential treatment facility beds shall not exceed *three hundred and fifteen (315) beds statewide, and shall be distributed among the state mental hospital districts established by administrative regulations promulgated by the Cabinet for Health Services under KRS 210.300 as follows:*

(a) District I for seventy-two (72) beds;

(b) District II for ninety-nine (99) beds;

(c) District III for ninety (90) beds; and

(d) District IV for fifty-four (54) beds[~~sixteen (16) beds in any area development district with less than 275,000 population; thirty-two (32) beds in any area development district with 275,000 to 550,000 population; and forty-eight (48) beds in any area development district with over 550,000 population~~].

(8) (a) The Cabinet for Health Services and the Cabinet for Families and Children shall investigate the need for children's psychiatric residential treatment services for specialized populations including, but not limited to, sexual offenders, children with physical and developmental disabilities, and children with dual diagnoses.

(b) The cabinets shall report to the Governor and the Legislative Research Commission by August 1, 2005, on a plan to enable children with specialized needs to be served in community-based psychiatric treatment facilities in Kentucky. The plan shall include methods to:

1. Identify the specialized populations;

2. Develop services targeted for the specialized populations; and

3. Establish a Medicaid reimbursement rate for specialized facilities in Kentucky.

Section 3. KRS 216B.459 is amended to read as follows:

The rate of reimbursement for Medicaid eligibles residing in *nine (9)*[~~eight (8)~~] bed psychiatric residential treatment facilities shall not exceed the rate of reimbursement for Medicaid eligibles residing in *eighteen (18)*[~~sixteen (16)~~] bed psychiatric residential treatment facilities.

HB 100, AN ACT relating to security of vital records.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) (a) The Office of Vital Statistics shall provide data from all vital records to the Governor's Office for Technology.

(b) The Governor's Office for Technology shall:

1. Maintain one (1) index for each type of vital record: birth, death, marriage, and divorce;

2. Update the indexes at least once each year; and

3. Forward the indexes to the Department for Libraries and Archives.

(c) The birth index shall state for each person born in Kentucky:

1. First, middle, and last names;

2. Birth date;

3. County of birth;

4. Maiden name of mother;

5. Sex of child; and

6. Birth certificate volume number, birth certificate number, and year birth certificate was filed.

(d) The death index shall state for each person who died in Kentucky:

1. First, middle, and last names;

2. Age at time of death;

3. County where death occurred;

4. City or county of residence;

5. Date of death; and

6. Death certificate volume number, death certificate number, and year death certificate was filed.

(e) The marriage index shall state for each person married in Kentucky:

1. First, middle, and last names;

2. County where marriage license was issued;

3. Date of marriage; and

4. Marriage certificate volume number, marriage certificate number, and year marriage certificate was filed.

(f) The divorce index shall state for each person divorced in Kentucky:

1. First, middle, and last names;

2. County of divorce;

3. Date of divorce; and

4. Divorce certificate volume number, divorce certificate number, and year divorce certificate was filed.

(2) The Department for Libraries and Archives shall provide copies of the four (4) indexes to the public for a fee set under the provisions of KRS 171.630. The department shall also permit persons to search the indexes at no charge.

Section 2. KRS 213.041 is amended to read as follows:

(1) In order to promote and maintain nationwide uniformity in the system of vital statistics, the forms of certificates and reports required by this chapter, or by administrative regulations ***promulgated under this chapter***[~~adopted hereunder~~], shall include, as a minimum, the items recommended by the federal agency responsible for national vital statistics.

(2) Each certificate, report, and other ***document***[~~documents~~] required by this chapter shall be[~~ on a form or~~] in a ***uniform*** format prescribed by the cabinet with due consideration for national uniformity. All certificates shall be typewritten with the exception of required signatures which shall be written legibly in unfading black ink. ***Each certified copy shall have security features that deter the copy from being altered, counterfeited, duplicated, or simulated without ready detection.***

(3) ***All forms and procedures used in the issuance of certified copies of vital records shall be uniform and provided by or approved by the state registrar.***

(4) No certificate shall be held to be complete and correct that does not supply all items of information called for therein or satisfactorily account for their omission, except as provided in KRS 199.570(3). If a certificate is incomplete, the local registrar shall immediately notify the responsible person and require that person to supply the missing items, if that information can be obtained.

(5)[~~(4)~~] All vital records shall contain the data required for registration.

(6)[~~(5)~~] No person shall charge or collect from any member of a family in which a birth or death occurs, any fee for completing and filing a report, or any other act or duty imposed upon them by this chapter.

Section 3. KRS 213.131 is amended to read as follows:

(1) To protect the integrity of vital records, to insure their proper use, and to insure the efficient and proper administration of the system of vital statistics, it shall be unlawful for any person to permit inspection of, or to disclose information contained in vital records or to copy or issue a copy of all or part of any record except as authorized by this chapter, by regulation, or by order of a court of competent jurisdiction. Administrative regulations ***promulgated***[~~adopted~~] by the cabinet shall provide for adequate standards of security and confidentiality of vital records ***and copies of vital records*** and shall conform to subsection (4) of this section.

(2) The state registrar shall ***not permit inspection of, or disclose information contained in, a vital record or copy or issue a copy of all or part of that record unless the registrar is satisfied that the applicant is authorized to inspect, obtain***

information from, or obtain a copy of that record[~~prepare annually an alphabetical list of all persons registered as born in the preceding year. The list shall show the person's name, the mother's maiden name, and the date and county of birth. This list shall be an open record subject to inspection by the public upon request~~].

(3) ***(a) Except as provided in paragraph (c) of this subsection, while a person named in a vital record is alive, the state registrar shall permit any of the following persons to obtain a certified copy of that vital record:***

1. A person named in that vital record;

2. His or her spouse, child eighteen (18) years of age or older, parent, grandparent, or sibling eighteen (18) years of age or older;

3. Any person authorized by a person named in that vital record to obtain a certified copy of that vital record;

4. A guardian, limited guardian, or conservator, as these terms are defined in KRS 387.010, of a minor named in that vital record;

5. A guardian, limited guardian, conservator, or limited conservator, as these terms are defined in KRS 387.510, of a disabled or partially disabled person named in that vital record;

6. An individual acting as a fiduciary, as defined in KRS 386.010, for a person named in that vital record; and

7. An individual with power of attorney for a person named in that vital record.

(b) 1. Except as provided in paragraph (c) of this subsection, following the death of a person named in a vital record, the state registrar shall permit the decedent's widow or widower, child eighteen (18) years of age or older, parent, grandparent, or sibling eighteen (18) years of age or older to obtain a certified copy of that vital record.

2. Except as provided in paragraph (c) of this subsection, following the death of a person named in a vital record, the state registrar shall permit any person authorized by the decedent's widow or widower, child eighteen (18) years of age or older, parent, grandparent, or sibling eighteen (18) years of age or older to obtain a certified copy of that vital record if the authorized person conclusively proves that the person named in that vital record is deceased. Conclusive proof shall take the form of:

a. A certified copy of a death certificate issued by Kentucky or another state;

b. A copy of the relevant page of Kentucky's or another state's death index verified by the Office of Vital Statistics; or

c. Such other conclusive proof as required by an administrative regulation promulgated by the cabinet to carry out the provisions of this subsection.

3. Any certified copy of the birth certificate of a deceased person issued under this paragraph shall be stamped "Deceased."

(c) A certified copy of an original birth certificate of an adopted or legitimized person or a certified copy of a vital record designated by court order as a restricted record shall not be issued under this subsection. A person may gain access to, or obtain a certified copy of, an original birth certificate of an adopted child only under the provisions of KRS 199.570 and 199.572[~~The state registrar shall prepare annually an alphabetical list of all persons registered who die in the Commonwealth. This list shall show the name of the deceased and the date and county of death and shall be an open record subject to inspection by the public upon request~~].

(4) The Cabinet for Health Services may authorize by regulation the disclosure of information contained in vital records for research and official administrative purposes, if:

(a) All information identifying persons named on the certificate is withheld or removed;

(b) The information is requested by a federal, state, county, or municipal agency of government which needs the data or information in the conduct of official duties; or

(c) The cabinet has prepared, in writing, a statement of the conditions under which the data or records will be used and received an agreement signed by a responsible agent of the research organization agreeing to meet with and conform to the conditions.

(5) If one hundred (100) years have elapsed after the date of birth, ***seventy (70) years have elapsed after the date of marriage or divorce,*** or fifty (50) years have elapsed after the date of death, the records of these events in the custody of the state registrar shall become public records and information shall be made available in accordance with regulations which shall provide for continued safekeeping of the records.

Section 4. KRS 213.136 is amended to read as follows:

(1) ***Subject to the requirements of Sections 2 and 3 of this Act,*** the state registrar shall upon receipt of an application issue a certified copy of a vital record***, other than an original birth certificate of an adopted or legitimized person or a vital record designated by court order as a restricted record,*** in the registrar's custody[~~ or a part thereof to any applicant~~]. ***In addition, a vital record shall be subject to discovery under the federal and Kentucky rules of criminal and civil***

procedure, and the Office of Vital Statistics shall provide a certified copy of a vital record to a person when directed to do so by a court order. Each copy issued shall show the date of registration and copies issued from records marked "delayed" or "amended" shall be similarly marked and show the effective date. The documentary evidence used to establish a delayed certificate shall be shown on all copies issued. All forms and procedures used in the issuance of certified copies of vital records in the Commonwealth shall be provided or approved by the state registrar.

(2) A certified copy of a vital record or any part thereof, issued in accordance with subsection (1) of this section, shall be considered for all purposes the same as the original and shall be prima facie evidence of the facts stated therein. The evidentiary value of a certificate or record which has been amended shall be determined by the judicial or administrative body, or official before which the certificate is offered as evidence.

(3) The federal agency responsible for national vital statistics may be furnished copies or data from the system of vital statistics for national statistics, if the federal agency shares in the cost of collecting, processing, and transmitting the data, and if the data is not used for other than statistical purposes by the federal agency unless so authorized by the cabinet.

(4) Federal, state, local, and other public or private agencies may, upon request, be furnished copies or data from the system of vital statistics for statistical or administrative purposes upon terms or conditions as may be prescribed by regulation if the copies or data are not used for purposes other than those for which they were requested without prior permission of the cabinet. No information other than statistical data shall be provided for commercial purposes.

(5) The cabinet may, by agreement, transmit copies of records and other reports required by this chapter to offices of vital statistics outside the Commonwealth when the records or other reports relate to residents of those jurisdictions or persons born in those jurisdictions. The agreement shall require that the copies be used for statistical and administrative purposes only and the agreement shall further provide for the retention and disposition of the copies. Copies received by the Office of Vital Statistics from offices of vital statistics in other states shall be handled in the same manner as prescribed in this section.

(6) No person shall prepare or issue any certificate which purports to be an original, certified copy, or copy of a vital record except as authorized in this section or ***administrative*** regulation ***promulgated under this chapter***[~~adopted hereunder~~].

Section 5. KRS 213.991 is amended to read as follows:

(1) Any person who shall cremate or cause to be cremated or transport or cause to be transported for the purpose of cremation, the body of any person whose death occurs in the Commonwealth, without first obtaining from the coroner of the county in which death occurred, authorization for the transportation and cremation shall be guilty of a Class D felony.

(2) Any person shall be guilty of a Class ***D felony***[~~A misdemeanor~~] who:

(a) Willfully and knowingly makes any false statement in a certificate, record, or report required by this chapter or in an application for an amendment thereof or in an application for a certified copy of a vital record or who willfully and knowingly supplies false information intending that such information be used in the preparation of any report, record or certificate or amendment thereof;

(b) Without lawful authority and with the intent to deceive, makes counterfeits, alters, amends or mutilates any certificate, record or report required by this chapter or a certified copy of such certificate, record or report;

(c) Willfully and knowingly obtains, possesses, uses, sells, furnishes or attempts to obtain, possess, use, sell or furnish to another, for any purpose of deception, any certificate, record or report required by this chapter or certified copy thereof so made, counterfeited, altered, amended, mutilated or which is false in whole or in part or which relates to the birth of another person whether living or deceased;

(d) As an employee of the Office of Vital Statistics or any office designated under KRS 213.036, willfully and knowingly furnishes or processes a certificate of birth or certified copy of a certificate of birth with the knowledge or intention that it may be used for the purpose of deception; or

(e) Without lawful authority possesses any certificate, record, or report required by this chapter or a copy or certified copy of such certificate, record, or report knowing same to have been stolen or otherwise unlawfully obtained.

(3) Any person shall be guilty of a Class ***A***[~~B~~] misdemeanor who:

(a) Willfully and knowingly refuses to provide information required by this chapter or administrative regulations adopted hereunder;

(b) Willfully and knowingly transports or accepts for transportation, interment, or other disposition a dead body without an accompanying permit as provided in this chapter;

(c) Willfully and knowingly neglects or violates any of the provisions of this chapter or refuses to perform any of the duties imposed upon him or her by this chapter; or

(d) As an employee of the Office of Vital Statistics or any office designated under KRS 213.036, willfully and knowingly violates the confidentiality provisions of KRS 213.131.

(4) Repeated failure to comply with the requirements of this chapter shall be sufficient cause for the cabinet to file a report with the applicable medical, dental, chiropractic, or funeral director licensure board citing the omissions of lawful duty and requesting that appropriate disciplinary action be taken.

The Committee Substitute to **HB 100** is as follows:

HB 100, AN ACT relating to security of vital records.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

(1) (a) The Office of Vital Statistics shall provide data from all vital records to the Governor's Office for Technology.

(b) The Governor's Office for Technology shall:

1. Maintain one (1) index for each type of vital record: birth, death, marriage, and divorce;

2. Update the indexes at least once each year; and

3. Forward the indexes to the Department for Libraries and Archives.

(c) The birth index shall state for each person born in Kentucky:

1. First, middle, and last names;

2. Birth date;

3. County of birth;

4. Maiden name of mother;

5. Sex of child; and

6. Birth certificate volume number, birth certificate number, and year birth certificate was filed.

(d) The death index shall state for each person who died in Kentucky:

1. First, middle, and last names;

2. Age at time of death;

3. County where death occurred;

4. City or county of residence;

5. Date of death; and

6. Death certificate volume number, death certificate number, and year death certificate was filed.

(e) The marriage index shall state for each person married in Kentucky:

1. First, middle, and last names;

2. County where marriage license was issued;

3. Date of marriage; and

4. Marriage certificate volume number, marriage certificate number, and year marriage certificate was filed.

(f) The divorce index shall state for each person divorced in Kentucky:

1. First, middle, and last names;

2. County of divorce;

3. Date of divorce; and

4. Divorce certificate volume number, divorce certificate number, and year divorce certificate was filed.

(2) The Department for Libraries and Archives shall provide copies of the four (4) indexes to the public for a fee set under the provisions of KRS 171.630. The department shall also permit persons to search the indexes at no charge.

Section 2. KRS 213.041 is amended to read as follows:

(1) In order to promote and maintain nationwide uniformity in the system of vital statistics, the forms of certificates and reports required by this chapter, or by administrative regulations *promulgated under this chapter*[~~adopted hereunder~~], shall include, as a minimum, the items recommended by the federal agency responsible for national vital statistics.

(2) Each certificate, report, and other *document*[~~documents~~] required by this chapter shall be[~~ on a form or~~] in a *uniform* format prescribed by the cabinet with due consideration for national uniformity. All certificates shall be typewritten with the exception of required signatures which shall be written legibly in unfading black ink. *Each certified copy shall have security features that deter the copy from being altered, counterfeited, duplicated, or simulated without ready detection.*

(3) *All forms and procedures used in the issuance of certified copies of vital records shall be uniform and provided by or approved by the state registrar.*

(4) No certificate shall be held to be complete and correct that does not supply all items of information called for therein or satisfactorily account for their omission, except as provided in KRS 199.570(3). If a certificate is incomplete, the local registrar shall immediately notify the responsible person and require that person to supply the missing items, if that information can be obtained.

(5)[~~(4)~~] All vital records shall contain the data required for registration.

(6)[~~(5)~~] No person shall charge or collect from any member of a family in which a birth or death occurs, any fee for completing and filing a report, or any other act or duty imposed upon them by this chapter.

Section 3. KRS 213.131 is amended to read as follows:

(1) To protect the integrity of vital records, to insure their proper use, and to insure the efficient and proper administration of the system of vital statistics, it shall be unlawful for any person to permit inspection of, or to disclose information contained in vital records or to copy or issue a copy of all or part of any record except as authorized by this chapter, by regulation, or by order of a court of competent jurisdiction. Administrative regulations *promulgated*[~~adopted~~] by the cabinet shall provide for adequate standards of security and confidentiality of vital records *and copies of vital records* and shall conform to subsection (4) of this section.

(2) The state registrar shall *not permit inspection of, or disclose information contained in, a vital record or copy or issue a copy of all or part of that record unless the registrar is satisfied that the applicant is authorized to inspect, obtain information from, or obtain a copy of that record*[~~prepare annually an alphabetical list of all persons registered as born in the preceding year. The list shall show the person's name, the mother's maiden name, and the date and county of birth. This list shall be an open record subject to inspection by the public upon request~~].

(3) *(a) Except as provided in paragraph (c) of this subsection, while a person named in a vital record is alive, the state registrar shall permit any of the following persons to obtain a certified copy of that vital record:*

1. A person named in that vital record;

2. His or her spouse, child eighteen (18) years of age or older, parent, grandparent, or sibling eighteen (18) years of age or older;

3. Any person authorized by a person named in that vital record to obtain a certified copy of that vital record;

4. A guardian, limited guardian, or conservator of a minor named in that vital record;

5. A guardian, limited guardian, conservator, or limited conservator of a disabled or partially disabled person named in that vital record; and

6. An individual with power of attorney for a person named in that vital record.

(b) 1. Except as provided in paragraph (c) of this subsection, following the death of a person named in a vital record, the state registrar shall permit the decedent's widow or widower, child eighteen (18) years of age or older, parent, grandparent, or sibling eighteen (18) years of age or older to obtain a certified copy of that vital record. In addition, prior to distribution of the decedent's estate, the state registrar shall permit the personal representative of the decedent's estate or a person with a claim against the decedent's estate to obtain a certified copy of the decedent's death certificate.

2. Except as provided in paragraph (c) of this subsection, following the death of a person named in a vital record, the state registrar shall permit any person authorized by the decedent's widow or widower, child eighteen (18) years of age or older, parent, grandparent, or sibling eighteen (18) years of age or older to obtain a certified copy of that vital record if the authorized person conclusively proves that the person named in that vital record is deceased. Conclusive proof shall take the form of:

a. A certified copy of a death certificate issued by Kentucky or another state;

b. A copy of the relevant page of Kentucky's or another state's death index verified by the Office of Vital Statistics; or

c. Such other conclusive proof as required by an administrative regulation promulgated by the cabinet to carry out the provisions of this subsection.

3. Any certified copy of the birth certificate of a deceased person issued under this paragraph shall be stamped "Deceased."

(c) A certified copy of an original birth certificate of an adopted or legitimized person or a certified copy of a vital record designated by court order as a restricted record shall not be issued under this subsection. A person may gain access to, or obtain a certified copy of, an original birth certificate of an adopted child only under the provisions of KRS 199.570 and 199.572[~~The state registrar shall prepare annually an alphabetical list of all persons registered who die in the Commonwealth. This list shall show the name of the deceased and the date and county of death and shall be an open record subject to inspection by the public upon request~~].

(4) The Cabinet for Health Services may authorize by regulation the disclosure of information contained in vital records for research and official administrative purposes, if:

(a) All information identifying persons named on the certificate is withheld or removed;

(b) The information is requested by a federal, state, county, or municipal agency of government which needs the data or information in the conduct of official duties; or

(c) The cabinet has prepared, in writing, a statement of the conditions under which the data or records will be used and received an agreement signed by a responsible agent of the research organization agreeing to meet with and conform to the conditions.

(5) If one hundred (100) years have elapsed after the date of birth, ***seventy (70) years have elapsed after the date of marriage or divorce,*** or fifty (50) years have elapsed after the date of death, the records of these events in the custody of the state registrar shall become public records and information shall be made available in accordance with regulations which shall provide for continued safekeeping of the records.

Section 4. KRS 213.136 is amended to read as follows:

(1) ***Subject to the requirements of Sections 2 and 3 of this Act,*** the state registrar shall upon receipt of an application issue a certified copy of a vital record***, other than an original birth certificate of an adopted or legitimized person or a vital record designated by court order as a restricted record,*** in the registrar's custody~~[or a part thereof to any applicant]~~. ***In addition, a vital record shall be subject to discovery under the federal and Kentucky rules of criminal and civil procedure, and the Office of Vital Statistics shall provide a certified copy of a vital record to a person when directed to do so by a court order.*** Each copy issued shall show the date of registration and copies issued from records marked "delayed" or "amended" shall be similarly marked and show the effective date. The documentary evidence used to establish a delayed certificate shall be shown on all copies issued. All forms and procedures used in the issuance of certified copies of vital records in the Commonwealth shall be provided or approved by the state registrar.

(2) A certified copy of a vital record or any part thereof, issued in accordance with subsection (1) of this section, shall be considered for all purposes the same as the original and shall be prima facie evidence of the facts stated therein. The evidentiary value of a certificate or record which has been amended shall be determined by the judicial or administrative body, or official before which the certificate is offered as evidence.

(3) The federal agency responsible for national vital statistics may be furnished copies or data from the system of vital statistics for national statistics, if the federal agency shares in the cost of collecting, processing, and transmitting the data, and if the data is not used for other than statistical purposes by the federal agency unless so authorized by the cabinet.

(4) Federal, state, local, and other public or private agencies may, upon request, be furnished copies or data from the system of vital statistics for statistical or administrative purposes upon terms or conditions as may be prescribed by regulation if the copies or data are not used for purposes other than those for which they were requested without prior permission of the cabinet. No information other than statistical data shall be provided for commercial purposes.

(5) The cabinet may, by agreement, transmit copies of records and other reports required by this chapter to offices of vital statistics outside the Commonwealth when the records or other reports relate to residents of those jurisdictions or persons born in those jurisdictions. The agreement shall require that the copies be used for statistical and administrative purposes only and the agreement shall further provide for the retention and disposition of the copies. Copies received by the Office of Vital Statistics from offices of vital statistics in other states shall be handled in the same manner as prescribed in this section.

(6) No person shall prepare or issue any certificate which purports to be an original, certified copy, or copy of a vital record except as authorized in this section or ***administrative*** regulation ***promulgated under this chapter***~~[adopted hereunder]~~.

Section 5. KRS 213.991 is amended to read as follows:

(1) Any person who shall cremate or cause to be cremated or transport or cause to be transported for the purpose of cremation, the body of any person whose death occurs in the Commonwealth, without first obtaining from the coroner of the county in which death occurred, authorization for the transportation and cremation shall be guilty of a Class D felony.

(2) Any person shall be guilty of a Class ***D felony***~~[A misdemeanor]~~ who:

(a) Willfully and knowingly makes any false statement in a certificate, record, or report required by this chapter or in an application for an amendment thereof or in an application for a certified copy of a vital record or who willfully and knowingly supplies false information intending that such information be used in the preparation of any report, record or certificate or amendment thereof;

(b) Without lawful authority and with the intent to deceive, makes counterfeits, alters, amends or mutilates any certificate, record or report required by this chapter or a certified copy of such certificate, record or report;

(c) Willfully and knowingly obtains, possesses, uses, sells, furnishes or attempts to obtain, possess, use, sell or furnish to another, for any purpose of deception, any certificate, record or report required by this chapter or certified copy thereof so made, counterfeited, altered, amended, mutilated or which is false in whole or in part or which relates to the birth of another person whether living or deceased;

(d) As an employee of the Office of Vital Statistics or any office designated under KRS 213.036, willfully and knowingly furnishes or processes a certificate of birth or certified copy of a certificate of birth with the knowledge or intention that it may be used for the purpose of deception; or

(e) Without lawful authority possesses any certificate, record, or report required by this chapter or a copy or certified copy of such certificate, record, or report knowing same to have been stolen or otherwise unlawfully obtained.

(3) Any person shall be guilty of a Class ***A***~~[B]~~ misdemeanor who:

(a) Willfully and knowingly refuses to provide information required by this chapter or administrative regulations adopted hereunder;

(b) Willfully and knowingly transports or accepts for transportation, interment, or other disposition a dead body without an accompanying permit as provided in this chapter;

(c) Willfully and knowingly neglects or violates any of the provisions of this chapter or refuses to perform any of the duties imposed upon him or her by this chapter; or

(d) As an employee of the Office of Vital Statistics or any office designated under KRS 213.036, willfully and knowingly violates the confidentiality provisions of KRS 213.131.

(4) Repeated failure to comply with the requirements of this chapter shall be sufficient cause for the cabinet to file a report with the applicable medical, dental, chiropractic, or funeral director licensure board citing the omissions of lawful duty and requesting that appropriate disciplinary action be taken.

HB 260, AN ACT relating to the Kentucky Early Intervention System.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 200.654 is amended to read as follows:

As used in KRS 200.650 to 200.676, unless the context requires otherwise:

(1) ***"Assessment" means the ongoing procedures used by appropriate qualified personnel, including informed clinical opinion, throughout the period of a child's eligibility to identify the child's unique strengths and needs and the services appropriate to meet those needs and to identify the resources, priorities, and concerns of the family and the supports and services necessary to enhance the family's capacity to meet the developmental needs of their infant or toddler with a disability. The assessment shall not be used to determine eligibility for early intervention services;***

(2) "Awards and contracts" means the state and federal funds designated by the cabinet for projects relating to planning, resource development, or provision of direct early intervention services, as defined in this section, to infants and toddlers with disabilities and their families;

(3)[~~(2)~~] "Cabinet" means the Cabinet for Health Services;

(4)[~~(3)~~] "Child find" means a system to identify, locate, and evaluate all infants and toddlers with disabilities who are eligible for early intervention services, determine which children are receiving services, and coordinate the effort with other state agencies and departments;

(5)[~~(4)~~] "Council" means the Kentucky Early Intervention System Interagency Coordinating Council;

(6) "Developmental delay" means a developmental condition determined by standardized measures, standardized procedures, and informed clinical opinion. If standardized measures or standardized procedures are considered to be appropriate, developmental delay may be determined by criteria that includes percentiles or percentages of levels of functioning on standardized measures. If standardized measures or standardized procedures are not appropriate for a given age or developmental area, informed clinical opinion shall be used to determine developmental delay;

(7) "Diagnosed physical or mental condition that has a high probability of resulting in developmental delay" or "established risk diagnosis" means a condition that typically results in developmental delay, including but not limited to chromosomal abnormalities, genetic or congenital disorders, severe sensory impairments, including hearing and vision, inborn errors of metabolism, disorders reflecting disturbance of the development of the nervous system, congenital infections, disorders secondary to exposure to toxic substances, including fetal alcohol syndrome, and severe attachment disorders;

(8)[~~(5)~~] "District" means one (1) of the fifteen (15) area development districts;

(9)[~~(6)~~] "District early intervention committee" means an interagency coordinating committee established within each of the fifteen (15) area development districts to facilitate interagency coordination at the district level;

(10)[~~(7)~~] "Early intervention services" means services for infants and toddlers with disabilities and their families delivered according to an individualized family service plan developed by the ***child's***[~~child~~] multidisciplinary team to meet the developmental needs of eligible children, as defined in this section, and provided by entities receiving public funds using qualified personnel. The individualized family services plan is developed and the services are provided in collaboration with the families and, to the maximum extent appropriate, in natural environments, including home and community settings in which infants and toddlers without disabilities would participate. These services are necessary to enable the child to reach maximum potential. Services to be made available shall include but not be limited to the following:

(a) Screening services;

(b) Evaluation services;

(c) Assessment services;

(d) Service coordination;

(e) Transportation and related costs for accessing early intervention services;

(f) Family services including counseling, psychological, and social work services;

(g) Health services including medical services for diagnostic and evaluation purposes only;

(h) Nutrition services;
(i) Occupational therapy services;
(j) Physical therapy services;
(k) Communication development services;
(l) Sensory development services;
(m) Developmental intervention services;
(n) Assistive technology services; and
(o) Respite services;

(11)[~~(8)~~] "Early intervention system" means the management structure established in KRS 200.654 to 200.670 and which is comprised of the interdependent array of services and activities for the provision of a statewide, comprehensive, coordinated, multidisciplinary, interagency program for infants and toddlers with disabilities and their families;

(12) "Evaluation" means the procedures used by appropriate qualified personnel, including informed clinical opinion, to determine a child's initial eligibility for early intervention services and, where appropriate, to provide information on continuing progress for revisions in the individualized family service plan upon periodic or annual evaluation of the plan. Evaluation plans shall consist of standardized, norm-referenced instruments and informed clinical opinion addressing all five (5) areas of development. For children suspected of hearing or vision loss, specific measures of hearing or vision shall be included. No single procedure shall be used as the sole criterion for determining a child's eligibility or continuing eligibility for early intervention services;

(13)[~~(9)~~] "Individual family service plan" means the singular comprehensive written service plan developed by the child's multidisciplinary team, with the child's parents serving as fully participating members of the team, to be followed by all agencies and other entities involved in providing early intervention services to an infant or toddler with disabilities and the child's family;

(14)[~~(10)~~] "Infants and toddlers with disabilities" and "eligible children" mean children from birth to thirty-six (36) months of age in need of early intervention services as a result of one (1) of the following circumstances:

(a) The child is experiencing developmental delays, as measured by diagnostic instruments and procedures in one (1) or more of the following skill areas: physical; cognitive; communication; social or emotional; or adaptive development*.*

1. For initial eligibility, children who perform significantly behind in developmental norms as evidenced by the child's score being:

a. At least two (2) standard deviations below the mean in one (1) skill area; or

b. At least one and one-half (1-1/2) standard deviations below the mean in two (2) skill areas; and

2. For continuing eligibility, children who perform significantly behind in developmental norms as evidenced by the child's score being at least one and one-half (1-1/2) standard deviations below the mean in one (1) skill area;

(b) The child is experiencing developmental delay or continues to require services to maintain progress in at least one skill area as determined by an appropriate professional using informed clinical opinion; or

(c)[~~(b)~~]The child has a diagnosed physical or mental condition which has a high probability of resulting in developmental delay;[~~ or~~

~~(c) The child has a diagnosis of pervasive developmental disorder;~~]

(15)[~~(11)~~] "Multidisciplinary team" means the child-specific group responsible for determining the services needed by the infant or toddler with disabilities and the child's family, and development of the individualized family services plan. The team for each child shall include the parent or guardian of the child and individuals representing at least two (2) applicable disciplines which may include but need not be limited to the following: physical therapy; speech therapy; social work; nursing; or education;

(16)[~~(12)~~] "Point of entry" means an easily identifiable, highly accessible nonstigmatized entry into services;[~~ and~~]

(17)[~~(13)~~] "Qualified service provider" means an entity, including but not limited to an individual, program, department, or agency, responsible for the delivery of early intervention services to eligible infants and toddlers with disabilities and their families who has met the highest minimum standards of state-approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the entity is providing early intervention services*; and*

(18) "Service coordination" means the activities carried out by a service coordinator to assist and enable a child and the child's family in the process of eligibility determination, and to assist and enable an eligible child and the child's family to receive the rights, procedural safeguards, and services that are authorized to be provided under the early intervention system.

Section 2. KRS 200.658 is amended to read as follows:

(1) There is hereby created the Kentucky Early Intervention System Interagency Coordinating Council to be comprised of

twenty-five (25) members to be appointed by the Governor to serve a term of three (3) years. The members of the council shall be geographically and culturally representative of the population of the Commonwealth and conform to the requirements of federal law and regulations. For administrative purposes, the council shall be attached to the Early Childhood Development Authority. Pursuant to federal law and regulations, the membership shall be as follows:

(a) At least five (5) members shall be the parents, including minority parents, of a child with a disability who is twelve (12) years of age or less, with at least one (1) being the parent of a child six (6) years of age or less. Each parent shall have knowledge of or experience with programs for infants and toddlers with disabilities;

(b) At least five (5) members shall be public or private providers of early intervention services to infants and toddlers with disabilities;

(c) At least one (1) member shall be a member of the Kentucky General Assembly;

(d) At least one (1) member shall be representative of an entity responsible for personnel preparation and may include personnel from an institution of higher education or preservice training organization;

(e) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Public Health;

(f) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Medicaid Services;

(g) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Mental Health and Mental Retardation Services;

(h) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Community Based Services;

(i) At least one (1) member shall be the commissioner or designee of the Department of Education;

(j) At least one (1) member shall be the commissioner or designee of the Department of Insurance; and

(k) At least one (1) member shall be a representative of the Commission for Children with Special Health Care Needs.

(2) In matters concerning the Kentucky Early Intervention System, the council shall advise and assist the cabinet in areas including, but not limited to, the following:

(a) Development, ***review,*** and implementation of the statewide system and the administrative regulations promulgated pursuant to KRS 200.650 to 200.676;

(b) Achieving the full participation, coordination, and cooperation of all appropriate entities in the state, including, but not limited to, individuals, departments, and agencies, through the promotion of interagency agreements;

(c) Establishing a process to seek information from service providers, service coordinators, parents, and others concerning the identification of service delivery problems and the resolution of those problems;

(d) Resolution of disputes, to the extent deemed appropriate by the cabinet;

(e) Provision of appropriate services for children from birth to three (3) years of age;

(f) Identifying sources of fiscal and other support services for early intervention programs;

(g) Preparing applications to Part C of the Federal Individuals with Disabilities Education Act (IDEA) and any amendments to the applications;

(h) Transitioning of infants and toddlers with disabilities and their families from the early intervention system to appropriate services provided under Part B of the Federal Individuals with Disabilities Education Act (IDEA) operated by the state Department of Education; and

(i) Developing performance measures to assess the outcomes for children receiving services.

(3) The council shall prepare no later than December 30 of each year an annual report on the progress toward and any barriers to full implementation of the Kentucky Early Intervention System for infants and toddlers with disabilities and their families. The report shall include recommendations concerning the Kentucky Early Intervention System, including recommendations of ways to improve quality and cost effectiveness, and shall be submitted to the Governor, Legislative Research Commission, and the Secretary of the United States Department of Education.

(4) No member of the council shall cast a vote on any matter which would provide direct financial benefit to that member or otherwise give the appearance of the existence of a conflict of interest.

Section 3. KRS 200.660 is amended to read as follows:

The cabinet shall:

(1) Administer all funds appropriated to implement the provisions of KRS 200.650 to 200.676;

(2) Identify and coordinate all available financial resources for early intervention within the Commonwealth from federal, state, local, and private sources, including but not limited to:

(a) Title V of the Federal Social Security Act relating to maternal and child health;

(b) Title XIX of the Federal Social Security Act relating to Medicaid and the Early Periodic Screening Diagnostic and

Treatment (EPSDT) program;

(c) The Federal Head Start Act;

(d) The Federal Individuals with Disabilities Education Act, Parts B and *C*[~~H~~];

(e) The Federal Elementary and Secondary Education Act of 1964 Title I, Chapter I, Part B, Subpart 2 as amended;

(f) The Federal Developmentally Disabled Assistance and Bill of Rights Act, P.L. 100-146;

(g) Other federal programs; and

(h) Private insurance.

(3) Develop a sliding fee scale of the cost of early intervention services to families, including those circumstances where no fee shall be required;

(4) Make available, in addition to the services specified in KRS 200.654*(10)*[~~(7)~~], social skill development and behavioral therapy services to infants and toddlers with a diagnosis of pervasive developmental disorders;

(5) Enter into contracts with service providers within a local community aided by the district committee in identifying providers *and a local point of entry*;

(6) Develop procedures to monitor and evaluate services that are provided to infants and toddlers with disabilities and their families;

(7) Develop procedures to ensure that early intervention services identified on the individualized family service plan are provided to eligible infants and toddlers with disabilities and their families in a timely manner pending resolution of any disputes among public agencies or service providers;[~~ and~~]

(8) In conjunction with the council and district early intervention committees, promulgate administrative regulations, pursuant to KRS Chapter 13A, necessary to implement the provisions of KRS 200.650 to 200.676*;*

(9) Submit proposed administrative regulations to the council for review and recommendations. Include a statement signed by the council chair with all promulgated administrative regulations as evidence of council review;

(10) Prepare and make available written policy procedures and implementation plans when administrative regulations are promulgated that entail policy and procedure change;

(11) Comply with federal statutes and regulations in the development, implementation, and enforcement of all provisions of the Kentucky Early Intervention System;

(12) Consult with federal and state agencies or other appropriate persons or entities regarding information and advice to improve and maintain effective and efficient best practice policy standards;

(13) Maintain updated information on all policies, procedures, administrative regulations, and best practice standards in places accessible to the public, including parents and service providers; and

(14) Recruit and hire appropriately and adequately trained personnel to coordinate, administer, and provide services for the early intervention program.

Section 4. KRS 200.664 is amended to read as follows:

(1) Upon identification of an eligible infant or toddler with disabilities, representatives of the entity serving as point of entry shall cause a multidisciplinary team, as defined in KRS 200.654, to be created for the child and family.

(2) The multidisciplinary team shall develop an individualized family service plan, as defined in KRS 200.654, for the child and family.

(3) The individualized family services plan shall include:

(a) A comprehensive multidisciplinary evaluation *based on professionally acceptable objective criteria about the child's status, including a statement of the child's present levels of physical development, cognitive development, communication development, social or emotional development, and adaptive development,* of the present level of development of and services needed by the child and an assessment of and plan to address the resources, priorities, and concerns of the family;

(b) *Family information, including a statement of the family's priorities and concerns related to enhancing the development of the child;*

(c) A statement of the major outcomes expected to be achieved for the child and family, and the criteria, procedures, and timeliness used to determine:

1. The degree to which progress toward achieving the outcomes is being made; and

2. Whether modifications or revisions of the outcomes or services are necessary;

(d) A statement of the specific early intervention services necessary to meet the unique needs of the child and the family to achieve the outcomes identified in this subsection including:

1. The frequency, intensity, and method of delivering the services;

2. The natural environments in which early intervention services will be provided, and a justification of the extent, if any, to which the services will not be provided in a natural environment;

3. The location of the services; and

4. The payment arrangements, if applicable;

(e) To the extent appropriate, a statement including:

1. Medical and other services that the child needs, but that are not covered under the early intervention system, exclusive of routine medical services such as immunizations and "well-baby" care unless the child needs those services and the services are not otherwise available or being provided; and

2. The funding sources to be used in paying for those services or the steps that will be taken to secure those services through public or private sources;

(f) The projected dates for the initiation of services as soon as possible after the plan meetings, and the anticipated duration of those services;

(g) The name of the service coordinator from the profession most immediately relevant to the child's or family's needs, or who is otherwise qualified to carry out all applicable responsibilities, who will be responsible for the implementation of the plan and coordination with other agencies and persons;

(h) The steps to be taken to support the transition of the child to preschool services, to the extent those services are appropriate, or to support other services that may be appropriate; and

(i) An explanation of the multidisciplinary evaluation and all service options to be made available in the family's cultural language, in their primary mode of communication, or through a speech or language interpreter, whichever is necessary to facilitate comprehension.

(4) The plan shall be developed within forty-five (45) days of the referral date of the child and family to the point of entry. If the completion of the initial evaluation and assessment is delayed and will not be completed within the forty-five (45) day time period due to the request of the child's parent, illness of the child, or other reasonable circumstances beyond the control of the multidisciplinary team, the point of entry shall document the reason for the delay and shall develop and implement an interim individualized family service plan.

(5) The *contents of the plan shall be fully explained to the parents. The* informed written consent of the parent or guardian is required prior to the implementation of the plan. The parent may reject some services contained in the plan, however, no services to which the parent consents shall be withheld if the parent does not consent to all services in the plan. *The early intervention services to which parental consent is obtained shall be provided.*

(6) The parent or guardian shall *be encouraged*[~~sign an agreement~~] to accept responsibility for being an active participant in the child's plan and for learning skills from providers *when appropriate,* so that *when possible,* the intensity and frequency of services may decline as the child reaches appropriate developmental levels and the family is able to do more for the child.

(7) *A periodic review of the individualized family services plan shall be completed*[~~The plan shall be reviewed~~] by members of the child's current multidisciplinary team or other appropriate entities at no more than six (6) month intervals or more frequently if deemed appropriate based on the needs of the infant or toddler and the family. *The periodic review may be carried out by a meeting or by another means that is acceptable to the parents and other participants. The purpose of the periodic review is to determine:*

(a) The degree to which progress toward achieving the outcomes is being made; and

(b) Whether modification or revision of the outcomes or services, including change of service providers, is necessary.

(8) An annual individualized family services plan evaluation meeting shall be conducted to revise any appropriate provisions of the plan, including continuing eligibility for early intervention services. The results of any current evaluations of the child and other information available from the ongoing assessment of the child and family shall be used in determining what services by the appropriate service provider are needed and will be provided. Unless conditions warrant otherwise, the requirement for the annual evaluation of the plan may be incorporated into a periodic review.

(9) If determined appropriate, relevant evaluation procedures, as defined in Section 1 of this Act, shall be repeated for a child before conducting a periodic review or annual evaluation of the plan[~~The child shall be evaluated at least annually to determine continuing program eligibility and the effectiveness of services provided to the child~~].

The Committee Substitute to **HB 260** is as follows:

HB 260, AN ACT relating to the Kentucky Early Intervention System.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 200.654 is amended to read as follows:

As used in KRS 200.650 to 200.676, unless the context requires otherwise:

(1) *"Assessment" means the ongoing procedures used by qualified personnel, including informed clinical opinion,*

throughout the period of a child's eligibility to identify the child's unique strengths and needs and the services appropriate to meet those needs and to identify the resources, priorities, and concerns of the family and the supports and services necessary to enhance the family's capacity to meet the developmental needs of their infant or toddler with a disability. The assessment shall not be used to determine eligibility for early intervention services;

(2) "Awards and contracts" means the state and federal funds designated by the cabinet for projects relating to planning, resource development, or provision of direct early intervention services, as defined in this section, to infants and toddlers with disabilities and their families;

(3)[~~(2)~~] "Cabinet" means the Cabinet for Health Services;

(4)[~~(3)~~] "Child find" means a system to identify, locate, and evaluate all infants and toddlers *suspected of having a disability*[~~with disabilities~~] who *may be*[~~ are~~] eligible for early intervention services, determine which children are receiving services, and coordinate the effort with other state agencies and departments;

(5)[~~(4)~~] "Council" means the Kentucky Early Intervention System Interagency Coordinating Council;

(6) "Developmental delay" means a significant discrepancy between a child's current level of performance as determined by standardized measures, standardized procedures, informed clinical opinion, and the expected level of performance for that age. Developmental delay may be determined by criteria that includes percentiles or percentages of levels of functioning on standardized measures. If standardized measures or standardized procedures are not available for a given age or developmental area, informed clinical opinion shall be used to determine developmental delay;

(7) "Diagnosed physical or mental condition that has a high probability of resulting in developmental delay" or "established risk diagnosis" means a condition that typically results in developmental delay, including but not limited to chromosomal abnormalities, genetic or congenital disorders, severe sensory impairments, including hearing and vision, inborn errors of metabolism, disorders reflecting disturbance of the development of the nervous system, congenital infections, disorders secondary to exposure to toxic substances, including fetal alcohol syndrome, and severe attachment disorders;

(8)[~~(5)~~] "District" means one (1) of the fifteen (15) area development districts;

(9)[~~(6)~~] "District early intervention committee" means an interagency coordinating committee established within each of the fifteen (15) area development districts to facilitate interagency coordination at the district level;

(10)[~~(7)~~] "Early intervention services" means services for infants and toddlers with disabilities and their families delivered according to an individualized family service plan developed by the *child's*[~~child~~] multidisciplinary team to meet the developmental needs of eligible children, as defined in this section, and provided by[~~ entities receiving public funds using~~] qualified personnel. The individualized family services plan is developed and the services are provided in collaboration with the families and, to the maximum extent appropriate, in natural environments, including home and community settings in which infants and toddlers without disabilities would participate. These services are necessary to enable the child to reach maximum potential. Services to be made available shall include but not be limited to the following:

(a) Screening services;
(b) Evaluation services;
(c) Assessment services;
(d) Service coordination;
(e) Transportation and related costs for accessing early intervention services;
(f) Family services including counseling, psychological, and social work services;
(g) Health services including medical services for diagnostic and evaluation purposes only;
(h) Nutrition services;
(i) Occupational therapy services;
(j) Physical therapy services;
(k) Communication development services;
(l) Sensory development services;
(m) Developmental intervention services;
(n) Assistive technology services;[~~ and~~]
(o) Respite services;
(p) Social skill development services; and
(q) Behavioral therapy services;

(11)[~~(8)~~] "Early intervention system" means the management structure established in KRS 200.654 to 200.670 and which is comprised of the interdependent array of services and activities for the provision of a statewide, comprehensive, coordinated, multidisciplinary, interagency program for infants and toddlers with disabilities and their families;

(12) "Evaluation" means the procedures used by qualified personnel, including informed clinical opinion, to determine a

child's initial eligibility for early intervention services and to provide information for any revisions in the individualized family service plan upon periodic or annual evaluation of the plan. Evaluation shall consist of standardized, norm-referenced instruments and informed clinical opinion addressing all five (5) areas of development. For children suspected of hearing or vision loss, specific measures of hearing or vision shall be included. No single procedure shall be used as the sole criterion for determining a child's eligibility or continuing eligibility for early intervention services;

(13)[~~(9)~~] "Individual family service plan" means the singular comprehensive written service plan developed by the child's multidisciplinary team, with the child's parents serving as fully participating members of the team, to be followed by all agencies and other entities involved in providing early intervention services to an infant or toddler with disabilities and the child's family;

(14)[~~(10)~~] "Infants and toddlers with disabilities" and "eligible children" mean children from birth to thirty-six (36) months of age in need of early intervention services as a result of one (1) of the following circumstances:

(a) The child is experiencing developmental delays, as measured by diagnostic instruments and procedures in one (1) or more of the following skill areas: physical; cognitive; communication; social or emotional; or adaptive development***.***

 1. For initial eligibility, children who perform significantly behind in developmental norms as evidenced by the child's score being:

  a. At least two (2) standard deviations below the mean in one (1) skill area; or

  b. At least one and one-half (1-1/2) standard deviations below the mean in two (2) skill areas; and

 2. For continuing eligibility, children who perform significantly behind in developmental norms as evidenced by the child's score being at least one and one-half (1-1/2) standard deviations below the mean in one (1) skill area;

(b) The child is experiencing developmental delay or continues to require services to maintain progress in at least one skill area as determined by a qualified professional using informed clinical opinion; or

(c)[~~(b)~~]The child has a diagnosed physical or mental condition which has a high probability of resulting in developmental delay;[~~ or~~

~~(c) The child has a diagnosis of pervasive developmental disorder;~~]

(15)[~~(11)~~] "Multidisciplinary team" means the child-specific group responsible for determining the services needed by the infant or toddler with disabilities and the child's family, and development of the individualized family services plan. The team for each child shall include the parent or guardian of the child and individuals representing at least two (2) applicable disciplines which may include but need not be limited to the following: physical therapy; speech therapy; social work; nursing; or education;

(16)[~~(12)~~] "Point of entry" means an easily identifiable, highly accessible nonstigmatized entry into services;[~~ and~~]

(17)[~~(13)~~] "Qualified service provider" means an entity, including but not limited to an individual, program, department, or agency, responsible for the delivery of early intervention services to eligible infants and toddlers with disabilities and their families who has met the highest minimum standards of state-approved or recognized certification, licensing, registration, or other comparable requirements that apply to the area in which the entity is providing early intervention services***; and***

(18) "Service coordination" means the activities carried out by a service coordinator to assist and enable a child and the child's family during the process of eligibility determination and during the eligibility period to receive their rights and procedural safeguards in accordance with KRS 200.672 and services that are authorized under the early intervention system.

Section 2. KRS 200.658 is amended to read as follows:

(1) There is hereby created the Kentucky Early Intervention System Interagency Coordinating Council to be comprised of twenty-five (25) members to be appointed by the Governor to serve a term of three (3) years. The members of the council shall be geographically and culturally representative of the population of the Commonwealth and conform to the requirements of federal law and regulations. For administrative purposes, the council shall be attached to the Early Childhood Development Authority. Pursuant to federal law and regulations, the membership shall be as follows:

(a) At least five (5) members shall be the parents, including minority parents, of a child with a disability who is twelve (12) years of age or less, with at least one (1) being the parent of a child six (6) years of age or less. Each parent shall have knowledge of or experience with programs for infants and toddlers with disabilities;

(b) At least five (5) members shall be public or private providers of early intervention services to infants and toddlers with disabilities;

(c) At least one (1) member shall be a member of the Kentucky General Assembly;

(d) At least one (1) member shall be representative of an entity responsible for personnel preparation and may include personnel from an institution of higher education or preservice training organization;

(e) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Public Health;

(f) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Medicaid Services;

(g) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Mental Health and Mental Retardation Services;

(h) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Community Based Services;

(i) At least one (1) member shall be the commissioner or designee of the Department of Education;

(j) At least one (1) member shall be the commissioner or designee of the Department of Insurance; and

(k) At least one (1) member shall be a representative of the Commission for Children with Special Health Care Needs.

(2) In matters concerning the Kentucky Early Intervention System, the council shall advise and assist the cabinet in areas including, but not limited to, the following:

(a) Development***, review,*** and implementation of the statewide system and the administrative regulations promulgated pursuant to KRS 200.650 to 200.676;

(b) Achieving the full participation, coordination, and cooperation of all appropriate entities in the state, including, but not limited to, individuals, departments, and agencies, through the promotion of interagency agreements;

(c) Establishing ***and implementing*** a process to seek information from service providers, service coordinators, parents, and others concerning the identification of service delivery problems and the resolution of those problems;

(d) Resolution of disputes, to the extent deemed appropriate by the cabinet;

(e) Provision of appropriate services for children from birth to three (3) years of age;

(f) Identifying sources of fiscal and other support services for early intervention programs;

(g) Preparing applications to Part C of the Federal Individuals with Disabilities Education Act (IDEA) and any amendments to the applications;

(h) Transitioning of infants and toddlers with disabilities and their families from the early intervention system to appropriate services provided under Part B of the Federal Individuals with Disabilities Education Act (IDEA) operated by the state Department of Education; and

(i) Developing performance measures to assess the ***effectiveness of the program, including whether children are making progress***[~~outcomes for children receiving services~~].

(3) The council shall prepare no later than December 30 of each year an annual report on the progress toward and any barriers to full implementation of the Kentucky Early Intervention System for infants and toddlers with disabilities and their families. The report shall include recommendations concerning the Kentucky Early Intervention System, including recommendations of ways to improve quality and cost effectiveness, and shall be submitted to the Governor, Legislative Research Commission, and the Secretary of the United States Department of Education.

(4) No member of the council shall cast a vote on any matter which would provide direct financial benefit to that member or otherwise give the appearance of the existence of a conflict of interest.

Section 3. KRS 200.660 is amended to read as follows:

The cabinet shall:

(1) Administer all funds appropriated to implement the provisions of KRS 200.650 to 200.676;

(2) Identify and coordinate all available financial resources for early intervention within the Commonwealth from federal, state, local, and private sources, including but not limited to:

(a) Title V of the Federal Social Security Act relating to maternal and child health;

(b) Title XIX of the Federal Social Security Act relating to Medicaid and the Early Periodic Screening Diagnostic and Treatment (EPSDT) program;

(c) The Federal Head Start Act;

(d) The Federal Individuals with Disabilities Education Act, Parts B and ***C***[~~H~~];

(e) The Federal Elementary and Secondary Education Act of 1964 Title I, Chapter I, Part B, Subpart 2 as amended;

(f) The Federal Developmentally Disabled Assistance and Bill of Rights Act, P.L. 100-146;

(g) Other federal programs; and

(h) Private insurance.

(3) Develop a sliding fee scale of the cost of early intervention services to families, including those circumstances where no fee shall be required;

(4)[~~Make available, in addition to the services specified in KRS 200.654(7), social skill development and behavioral therapy services to infants and toddlers with a diagnosis of pervasive developmental disorders;~~

~~(5)~~] Enter into contracts with service providers within a local community aided by the district committee in identifying providers *and a local point of entry*;

(5)[~~(6)~~] Develop procedures to monitor and evaluate services that are provided to infants and toddlers with disabilities and their families;

(6)[~~(7)~~] Develop procedures to ensure that early intervention services identified on the individualized family service plan are provided to eligible infants and toddlers with disabilities and their families in a timely manner pending resolution of any disputes among public agencies or service providers;[~~ and~~]

(7)[~~(8)~~] In conjunction with the council and district early intervention committees, promulgate administrative regulations, pursuant to KRS Chapter 13A, necessary to implement the provisions of KRS 200.650 to 200.676*;*

(8) Submit proposed administrative regulations to the council for review and recommendations. Include a statement signed by the council chair with all promulgated administrative regulations as evidence of council review;

(9) Prepare and make available written policy procedures and implementation plans when administrative regulations are promulgated that entail policy and procedure change;

(10) Comply with federal statutes and regulations in the development, implementation, and enforcement of all provisions of the Kentucky Early Intervention System;

(11) Consult with federal and state agencies or other persons or entities regarding information and advice to improve and maintain effective and efficient best practice policy standards;

(12) Maintain updated information on all policies, procedures, administrative regulations, and best practice standards in places accessible to the public, including parents and service providers;

(13) Recruit and hire qualified personnel to coordinate, administer, and provide services for the early intervention program; and

(14) Prepare no later than December 30 of each year an annual report on program quality and cost effectiveness. The report shall be submitted to the Governor and the Legislative Research Commission.

Section 4. KRS 200.664 is amended to read as follows:

(1) Upon identification of an eligible infant or toddler *suspected of having a disability*[~~with disabilities~~], representatives of the entity serving as point of entry shall cause a multidisciplinary team, as defined in KRS 200.654, to be created for the child and family.

(2) The multidisciplinary team shall develop an individualized family service plan, as defined in KRS 200.654, for the child and family.

(3) The individualized family services plan shall include:

(a) A comprehensive multidisciplinary evaluation *based on professionally acceptable objective criteria about the child's status, including a statement of the child's present levels of physical development, cognitive development, communication development, social or emotional development, and adaptive development,* of the present level of development of and services needed by the child and an assessment of and plan to address the resources, priorities, and concerns of the family;

(b) *Family information, including a statement of the family's priorities and concerns related to enhancing the development of the child;*

(c) A statement of the major outcomes expected to be achieved for the child and family, and the criteria, procedures, and time lines used to determine:

1. The amount of progress made toward achieving the outcomes; and

2. Whether modifications or revisions of the outcomes or services are necessary;

(d) A statement of the specific early intervention services necessary to meet the unique needs of the child and the family to achieve the outcomes identified in this subsection including:

1. The frequency, intensity, and method of delivering the services;

2. The natural environments in which early intervention services will be provided, and a justification of the extent, if any, to which the services will not be provided in a natural environment;

3. The location of the services; and

4. The payment arrangements, if applicable;

(e) A statement including:

1. Other services that the child needs, but that are not covered under the early intervention system; and

2. The funding sources to be used in paying for those services or the steps that will be taken to secure those services through public or private sources;

(f) The projected dates for the initiation of services as soon as possible after the plan meetings, and the anticipated duration of those services;

(g) The name of the service coordinator from the profession most immediately relevant to the child's or family's

needs, or who is otherwise qualified to carry out all applicable responsibilities, who will be responsible for the implementation of the plan and coordination with other agencies and persons;

(h) The steps to be taken to support the transition of the child to preschool services; and

(i) An explanation of the multidisciplinary evaluation and all service options to be made available in the family's cultural language, in their primary mode of communication, or through *an*[~~a speech or language~~] interpreter, whichever is necessary to facilitate comprehension.

(4) The plan shall be developed within forty-five (45) days of the referral date of the child and family to the point of entry. If the completion of the initial evaluation and assessment is delayed and will not be completed within the forty-five (45) day time period due to the request of the child's parent, illness of the child, or other reasonable circumstances beyond the control of the multidisciplinary team, the point of entry shall document the reason for the delay and shall develop and implement an interim individualized family service plan.

(5) The *contents of the plan shall be fully explained to the parents. The* informed written consent of the parent or guardian is required prior to the implementation of the plan. The parent may reject some services contained in the plan, however, no services to which the parent consents shall be withheld if the parent does not consent to all services in the plan. *The early intervention services to which parental consent is obtained shall be provided.*

(6) The parent or guardian shall *be encouraged*[~~sign an agreement~~] to accept responsibility for being an active participant in the child's plan and for learning skills from providers so that *when possible,* the intensity and frequency of services may decline as the child reaches appropriate developmental levels and the family is able to do more for the child.

(7) *A periodic review of the individualized family services plan shall be completed*[~~The plan shall be reviewed~~] by members of the child's current multidisciplinary team or other appropriate entities at no more than six (6) month intervals or more frequently if deemed appropriate based on the needs of the infant or toddler and the family.

(8) The child shall be evaluated at least annually to *assess progress and continuing need for early intervention services. The results of any current evaluations of the child and other information available from the ongoing assessment of the child and family shall be used in determining what services are needed or that services are no longer needed. Unless conditions warrant otherwise, the requirement for the annual evaluation of the plan may be incorporated into a periodic review.*

(9) Relevant evaluation procedures, as defined in Section 1 of this Act, shall be repeated for a child before conducting a periodic review or annual evaluation of the plan only when necessary[~~determine continuing program eligibility and the effectiveness of services provided to the child~~].

SECTION 5. A NEW SECTION OF KRS 200.650 TO 200.676 IS CREATED TO READ AS FOLLOWS:

The Commission for Children with Special Health Care Needs shall submit a quarterly budget analysis report for the Kentucky Early Intervention Services Program to the Interim Joint Committee on Appropriations and Revenue. The report shall provide the number of children enrolled, the average number of service units by category of service, and the average cost per service, by category of services, and compare actual expenditure experience with those underlying the enacted or revised enacted budget and explain any significant variances which may occur. The expenditure for the Kentucky Early Intervention Services Program shall not exceed the amount designated in the enacted or revised enacted budget.

HB 322, AN ACT relating to services for children with serious emotional disturbances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 200.505 is amended to read as follows:

There is hereby created a State Interagency Council for Services to Children with an Emotional Disability. The chairman of the council shall be designated by the Governor and shall establish procedures for the council's internal procedures.

(1) This council shall be composed of the following:

(a) Members who shall serve by virtue of their positions: the commissioner of the Department of Education, the commissioner of the Department for Mental Health and Mental Retardation Services, the commissioner of the Department for Community Based Services, the commissioner of the Department for Public Health, the commissioner of the Department for Medicaid Services, the commissioner of the Department of Juvenile Justice, *the director of the Office of Family Resource and Youth Services Centers, and the general manager of the Office of Juvenile Services*[~~and the executive director~~] of the Administrative Offices of the Courts, or their designees; and

(b) The Governor shall appoint one (1) parent of a child with an emotional disability, who is a consumer of state-funded services for children with an emotional disability to serve as a member of the council, and one (1) parent who meets the same criteria to serve as the parent member's alternate to serve in the absence of the parent member. For each appointment to be made, the State Family Advisory Council shall submit to the Governor a list of two (2) names of parents who are qualified for appointment from which list the Governor shall make the appointment. Appointees shall serve a term of four (4) years. If the child of the parent member or alternate parent member ceases to be a consumer of state-funded services for children with an emotional disability during the term of appointment, the member shall be eligible to serve out the remainder of the term of appointment. The alternate parent member may attend and participate in all council meetings but shall vote only in the absence of the parent member. The parent member and alternate parent member shall receive no compensation in addition to that which they may already receive as service providers or state employees, but the parent member and alternate parent member shall be reimbursed for expenses incurred through the performance of their duties as council members.

(2) The State Interagency Council for Services to Children with an Emotional Disability shall:

(a) Consider issues and make recommendations annually to the Governor and the Legislative Research Commission regarding the provision of services for children with an emotional disability;

(b) Direct each regional interagency council to coordinate services to children with an emotional disability and identify factors contributing to a lack of coordination;

(c) Develop a form to be signed by the parent or other legal guardian of a child referred for services to any interagency council for children with an emotional disability. The form shall enable the agencies involved with the child to share information about the child as necessary to identify and provide services for the child;

(d) Review service and treatment plans for children for whom reviews are requested, and provide any advice and assistance that the state council determines to be necessary to meet the needs of children with an emotional disability referred by regional councils;

(e) Assess the effectiveness of regional councils in meeting the service needs of children with an emotional disability;

(f) Establish a uniform grievance procedure for the state, to be implemented by each regional interagency council. Appeals may be initiated by the child, parent, guardian, person exercising custodial control or supervision, or other authorized representative about matters relating to the interagency service plan for the child or the denial of services by the regional interagency council. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B;

(g) Meet at least monthly and maintain records of meetings, except that records that identify individual children shall only be disclosed as provided by law;

(h) Adopt interagency agreements as necessary for coordinating services to children with an emotional disability by the agencies represented in the state council;

(i) Develop services to meet the needs of children with an emotional disability; and

(j) Promote services to prevent the emotional disability of a child.

(3) The State Interagency Council for Services to Children with an Emotional Disability may promulgate administrative regulations necessary to comply with the requirements of KRS 200.501 to 200.509.

HCR 78, A CONCURRENT RESOLUTION creating a task force of the Legislative Research Commission to study the unique needs of grandparents who are raising their grandchildren and to develop an action plan to address their needs.

WHEREAS, there are currently 70,000 grandparents in Kentucky who live in households with one or more of their own grandchildren; and

WHEREAS, nearly 36,000 grandparents are the primary caregivers for grandchildren; and

WHEREAS, the percent of grandparents who are responsible for grandchildren ranges between 32.4% and 87.5% in every county in Kentucky and is 9 percent above the national average; and

WHEREAS, grandparent caregivers are at the center of a battle against drug use and addiction that has reached epidemic proportions in Kentucky, accepting primary caregiving responsibilities for grandchildren, often ill prepared to do so, because the birth parents are in jail or incapacitated by drugs or alcohol; and

WHEREAS, grandparents are accepting caregiving responsibilities with little regard to their own emotional and physical well-being; and

WHEREAS, grandparent caregivers are concerned about the health, education, and personal safety and security of their grandchildren; and

WHEREAS, the demand for foster care increasingly exceeds the availability of such care; and

WHEREAS, the placement in the child welfare system of children being raised by grandparents would impose substantial costs on taxpayers; and

WHEREAS, Kentucky immediately needs to prepare for the growing population of grandchildren being raised by grandparents;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to establish a 37 member task force on grandparents who raise grandchildren. The task force shall study the issues and barriers that confront grandparent caregivers and shall develop an action plan to address their needs.

Section 2. The task force shall consist of the following members subject to approval by the Legislative Research Commission:

(1) The co-chairs of the Interim Joint Committee on Health and Welfare or their designees;

(2) The co-chairs of the Interim Joint Committee on Appropriations and Revenue or their designees;

(3) The co-chairs of the Interim Joint Committee on Judiciary or their designees;

(4) The co-chairs of the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection, or their designees;

(5) The Lieutenant Governor or a representative of his "War Against Drugs" initiative;

(6) The commissioner of the Department for Public Health or a designee;

(7) The commissioner of the Department for Mental Health and Mental Retardation Services or a designee;

(8) The commissioner of the Department for Community Based Services or a designee;

(9) The Attorney General or a designee;

(10) The director of the Division of Protection and Permanency, or a designee;

(11) The coordinator of the Kentucky KinCare Project, Office of Aging Services, or a designee;

(12) The executive director of the Office of Family Resource and Youth Services Centers, or a designee;

(13) The director of the Division of Family Support, or a designee;

(14) The Commissioner of the Department of Education, or a designee;

(15) The associate dean, Cooperative Extension Service, College of Agriculture, University of Kentucky, or a designee;

(16) The assistant director of the Department of Family and Consumer Sciences, Cooperative Extension Service, College of Agriculture, University of Kentucky, or a designee;

(17) The executive director of the Kentucky Association of Community Action, or a designee;

(18) Two representatives of the Kentucky Association of Area Agencies on Aging, as designated by the Office of Aging Services;

(19) Two currently sitting or retired family law judges, one appointed by the President of the Senate and one appointed by the Speaker of the House of Representatives;

(20) The director of the Department of Education's Division of Student, Family, and Community Support Services or a designee;

(21) The director of the Lexington-Fayette Urban-County Government's Office of Aging or a designee;

(22) The Jefferson County attorney or a designee;

(23) Five grandparents as designated by the Kentucky KinCare Statewide Steering Committee;

(24) Three local family resource and youth services center coordinators as designated by the Office of Family Resource and Youth Services Centers; and

(25) One family and consumer sciences specialist as designated by the assistant director of the Department for Family and Consumer Sciences, Cooperative Extension Service, College of Agriculture, University of Kentucky.

Section 3. The Legislative Research Commission shall appoint as co-chairs one Senator and one member of the House of Representatives from among the membership of the task force.

Section 4. The task force shall meet at least monthly, beginning not later than August 1, 2004, and shall report its findings and recommendations to the Legislative Research Commission no later than December 15, 2004. The task force shall cease to exist upon the making of its report.

Section 5. The task force findings and recommendations shall:

(1) Ascertain data on the number of Kentucky grandparents who raise grandchildren and the number of grandchildren in their care;

(2) Determine major needs and concerns of Kentucky grandparents who raise grandchildren; and

(3) Develop a strategic plan to address these needs and concerns, and identify any barriers to implementing the plan on a timely basis.

Section 6. Issues to be addressed in the recommendations shall include but are not limited to the following:

(1) The establishment of proper legal relationships between grandparents and grandchildren so that grandparents may act in the best interests of their grandchildren;

(2) The provision of financial assistance for grandparents who raise grandchildren, including the availability of actual assistance and public awareness of policies regarding and eligibility requirements for assistance;

(3) The need for "Focused Intervention" strategies (education, information, training, other assistance as identified) with grandparents who are second-time caregivers because birth parents are involved with drug use, addiction, alcoholism, or incarceration;

(4) The need for local "navigators" or communicators to help steer grandparent caregivers through the complex network of social supports and eligibility requirements;

(5) The need for education legislation to reduce and eliminate barriers to school enrollment, and the need for medical consent legislation to reduce and eliminate barriers to obtaining immunizations and other health care for the children;

(6) The need for more assistance for grandchildren with mental health and emotional problems, including the availability of counseling services;

(7) The availability of after-school care, transportation, and tutoring for grandchildren;

(8) Legal assistance specific to the needs of grandparent caregivers;

(9) Increased availability of and access to mental and physical health services for grandparents who raise grandchildren;

(10) Increased respite care and stress reduction programs;

(11) More comprehensive information and referral assistance; and

(12) Enhancement of respect for grandparent caregivers by changing the cultures of the legal, judicial, and social services communities.

Section 7. Except as provided in KRS 18A.200, members of the task force shall receive actual travel expenses incurred while attending meetings of the task force.

Section 8. The task force may employ consultants if approved by the Legislative Research Commission, request and hear testimony, or take any necessary steps to ensure a fair, thorough, and reasonable study of the issue.

Section 9. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee on Transportation reported **HB 326,** with Committee Substitute attached thereto, and **HB 350,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 326, AN ACT relating to state aeronautics programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:

(1) There is created the Kentucky Aviation Commission, which shall be responsible for advising the Kentucky Transportation Cabinet, the Governor, and the General Assembly on all matters pertaining to aeronautics.

(2) The commission shall be attached for administrative purposes to the Kentucky Transportation Cabinet and shall utilize employees from the cabinet.

(3) (a) The Kentucky Aviation Commission shall consist of the following thirteen (13) members: the President of the Senate or his or her designee as a non-voting member; the Speaker of the House of Representatives or his or her designee as a non-voting member; the secretary of the Transportation Cabinet or his or her designee; the secretary of the Economic Development Cabinet or his or her designee; the adjutant general or his or her designee; and eight (8) members appointed by the Governor including, to the extent feasible, one (1) representative from a commercial airline with a hub in Kentucky, one (1) representative from an air cargo carrier with a hub in Kentucky, one (1) airport manager representing one (1) of the state's three (3) largest airports, and three (3) airport board members or managers representing the state's smaller airports who shall be geographically distributed throughout the state, and one (1) at-large member who shall have an interest or experience in aviation.

(b) The members appointed by the Governor shall serve for a term of four (4) years.

(4) Appointed members may be removed by the Governor for neglect of duty or malfeasance in office. If a vacancy occurs, the Governor shall appoint a qualified individual to serve the remainder of the unexpired term.

(5) Commission members shall be reimbursed for actual expenses incurred in the performance of their official duties.

(6) The commission shall meet quarterly or at the call of the chair. The members shall elect a chair and vice-chair who shall serve for one (1) year.

(7) The commission shall:

(a) Review the cabinet's policies and regulations relating to aeronautics;

(b) Approve the cabinet's aeronautics budget and state airport plan;

(c) Review expenditures from the Kentucky Airport Development Fund;

(d) Recommend policies for improving and promoting the state's air transportation system;

(e) Advise the Governor on aeronautics issues related to economic development;

(f) Report annually to the Governor and the Legislative Research Commission on the status of the state's air transportation system and aeronautics programs; and

(g) Recommend legislation to improve the state's air transportation system.

Section 2. The initial terms for the appointed members of the commission shall be as follows: two (2) members shall serve a term of two (2) years, two (2) members shall serve a term of three (3) years, and four (4) members shall serve a term of four (4) years.

The Committee Substitute to **HB 326** is as follows:

HB 326, AN ACT relating to state aeronautics programs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:

(1) There is created the Kentucky Aviation Commission, which shall be responsible for advising the Kentucky Transportation Cabinet, the Governor, and the General Assembly on all matters pertaining to aeronautics.

(2) The commission shall be attached for administrative purposes to the Kentucky Transportation Cabinet and shall utilize employees from the cabinet.

(3) (a) The Kentucky Aviation Commission shall consist of the following thirteen (13) members: the President of the Senate or his or her designee as a non-voting member; the Speaker of the House of Representatives or his or her designee as a non-voting member; the secretary of the Transportation Cabinet or his or her designee; the secretary of the Economic Development Cabinet or his or her designee; the adjutant general or his or her designee; and eight (8) members appointed by the Governor including, to the extent feasible, one (1) representative from a commercial airline with a hub in Kentucky, one (1) representative from an air cargo carrier with a hub in Kentucky, one (1) airport manager representing one (1) of the state's three (3) largest airports, and three (3) airport board members or managers representing the state's smaller airports who shall be geographically distributed throughout the state, and one (1) at-large member who shall have an interest or experience in aviation.

(b) The members appointed by the Governor shall serve for a term of four (4) years.

(4) Appointed members may be removed by the Governor for neglect of duty or malfeasance in office. If a vacancy occurs, the Governor shall appoint a qualified individual to serve the remainder of the unexpired term.

(5) Commission members shall be reimbursed necessary travel expenses for attending meetings of the commission, subject to approval by the secretary of the Transportation Cabinet. The secretary may authorize reimbursement for other expenses necessary in the performance of a commission member's official duties.

(6) The commission shall meet quarterly or at the call of the chair. The members shall elect a chair and vice-chair who shall serve for one (1) year.

(7) The commission shall:

(a) Review the cabinet's policies and regulations relating to aeronautics;

(b) Review the cabinet's aeronautics budget and state airport plan and make recommendations to the secretary of the cabinet regarding the budget and airport plan;

(c) Review expenditures from the Kentucky Airport Development Fund;

(d) Recommend policies for improving and promoting the state's air transportation system;

(e) Advise the Governor on aeronautics issues related to economic development;

(f) Report annually to the Governor and the Legislative Research Commission on the status of the state's air transportation system and aeronautics programs; and

(g) Recommend legislation to improve the state's air transportation system.

Section 2. The initial terms for the appointed members of the commission shall be as follows: two (2) members shall serve a term of two (2) years, two (2) members shall serve a term of three (3) years, and four (4) members shall serve a term of four (4) years.

HB 350, AN ACT relating to fines for traffic offenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.394 is amended to read as follows:

(1) The fines for speeding in violation of KRS 189.390 shall be:

Mph. Over Limit	Prima Facie or Maximum Speed 15	20	25	30	35	40	45	50	55	60	65	Fine
1	16	21	26	31	36	41	46	51	56	61	66	$1
2	17	22	27	32	37	42	47	52	57	62	67	2
3	18	23	28	33	38	43	48	53	58	63	68	3
4	19	24	29	34	39	44	49	54	59	64	69	4
5	20	25	30	35	40	45	50	55	60	65	70	5
6	21	26	31	36	41	46	51	56	61	66	71	16
7	22	27	32	37	42	47	52	57	62	67	72	17
8	23	28	33	38	43	48	53	58	63	68	73	18
9	24	29	34	39	44	49	54	59	64	69	74	19
10	25	30	35	40	45	50	55	60	65	70	75	20
11	26	31	36	41	46	51	56	61	66	71	76	22
12	27	32	37	42	47	52	57	62	67	72	77	24
13	28	33	38	43	48	53	58	63	68	73	78	26
14	29	34	39	44	49	54	59	64	69	74	79	28
15	30	35	40	45	50	55	60	65	70	75	80	30
16	31	36	41	46	51	56	61	66	71	76	81	32
17	32	37	42	47	52	57	62	67	72	77	82	34
18	33	38	43	48	53	58	63	68	73	78	83	36
19	34	39	44	49	54	59	64	69	74	79	84	38
20	35	40	45	50	55	60	65	70	75	80	85	40
21	36	41	46	51	56	61	66	71				43
22	37	42	47	52	57	62	67	72				46
23	38	43	48	53	58	63	68	73				49
24	39	44	49	54	59	64	69	74				52
25	40	45	50	55	60	65	70	75				55

(2) For speeding in excess of the speeds shown on the specific fine schedule the fine shall be not less than sixty dollars ($60) nor more than one hundred dollars ($100).

(3) For any violation shown on the chart for which a specific fine is prescribed, the defendant may elect to pay the fine and court costs to the circuit clerk before the date of his trial or to be tried in the normal manner. Payment of the fine and court costs to the clerk shall be considered as a plea of guilty for all purposes.

(4) If the offense charged shows a speed in excess of the speeds shown on the specific fine schedule the defendant shall appear for trial and may not pay the fine to the clerk before the trial date.

(5) If the offense occurred in a highway work zone, the fine established by subsection (1) or (2) of this section shall be doubled.

(6) All fines collected for speeding in a highway work zone in violation of KRS 189.390 shall be deposited into a separate trust and agency account within the Transportation Cabinet known as the "Highway Work Zone Safety Fund." The highway work zone safety fund shall be used exclusively by the Transportation Cabinet to hire or pay for enhanced law enforcement of traffic laws within highway work zones.

(7) If the offense occurred in an area near a school where flasher lights have been installed and a speed limit has been set pursuant to KRS 189.336, the fine established by subsection (1) or (2) of this section shall be doubled.

The Committee on Elections, Constitutional Amendments, and Intergovernmental Relations reported **HB 209,** with Committee Substitute and Committee Amendment attached thereto, **HB 211,** and **HB 306,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 209, AN ACT relating to election officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.045 is amended to read as follows:

(1) The county board of elections shall in the manner prescribed by this section, not later than March 20 each year, except in a year in which no primary and regular elections are scheduled, appoint for each precinct in the county two (2) judges, one (1) clerk and one (1) sheriff of election. They shall serve in all elections held in the county during the year, except for minors seventeen (17) years of age who will become eighteen (18) years of age on or before the day of the regular election who may only serve as election officers for the primary and regular elections as provided in subsection (9) of this section. If a special election is ordered to be held in a year in which no elections are scheduled, the county executive committee of each political party in each county in the territory affected by the special election shall, not later than twenty-eight (28) days preceding the date of the special election, submit a written list of nominees for precinct election officers to serve in the special election in a manner consistent with the provisions of subsection (2) of this section. The county board of elections in each county in the territory affected by the special election shall, not later than twenty-one (21) days preceding the date of the special election, appoint precinct election officers to serve in the special election in a manner consistent with the provisions of subsections (4), (5), and (6) of this section. The State Board of Elections shall promulgate an administrative regulation establishing evaluation procedures which county boards of elections may use to qualify persons nominated to serve as precinct election officers.

(2) The county executive committees of the two (2) political parties having representation on the State Board of Elections may, on or before March 15 each year, designate in writing to the county board of elections a list of not less than four (4) names for each precinct; except that, in any precinct where there are not as many as four (4) persons possessing the qualifications of an election officer belonging to the political party filing the list, a lesser number may be designated. If there are two (2) or more contending executive committees of the same party in any county, the one recognized by the written certificate of the chairman of the state central committee of the party shall be the one authorized to submit the lists. The lists shall contain the full name, address, phone number, and Social Security number, if available, of each person listed. The lists shall be accompanied by a signed statement from each person stating that he is willing to serve, has not failed to serve without excuse in the past, and has not been convicted of an election law offense or any felony, unless the person's civil rights have been restored by the Governor. The State Board of Elections shall prescribe by administrative regulation the form of the list.

(3) The Attorney General shall notify each party state central committee of the duties of the party.

(4) If lists are submitted, the county board of elections shall select one (1) judge at each voting place from each political party's list, and the county board shall select the sheriff from one (1) political party's list and the clerk from the other. If no lists are submitted, the two (2) members of the county board of elections who are appointed by the State Board of Elections may submit lists; and the county board shall select the sheriff and one (1) judge from one (1) list and the clerk and the other judge from the remaining list. If no lists are submitted, the county board shall select the sheriff and one (1) judge from the membership of one (1) party and the clerk and the other judge from the membership of the remaining party. The county board shall, when possible, also appoint an adequate number of alternate precinct election officers from names on the lists which were submitted but which were not selected by the county board as precinct election officers. If alternate precinct election officers are not appointed from the lists of nominees who were not selected as precinct election officers, the county board of elections shall submit its method of selecting alternate precinct election officers to the State Board of Elections for its approval.

(5) If, after all reasonable efforts have been made, the county board of elections is unable to find two (2) qualified officers for each precinct who are affiliated with the two (2) political parties having representation on the State Board of Elections, the county board shall submit a list of emergency election officer appointments to the State Board of Elections. The county board shall also present, in writing, its efforts to recruit and appoint election officers as prescribed in subsection (4) of this section. The list of emergency appointments may include qualified voters not affiliated with the two (2) parties represented on the state board. The state board, after its review, may approve any or all of the emergency appointments submitted by the county board or may direct the county board to take other action. Any emergency appointment shall be made for the next ensuing election only.

(6) In addition to precinct election officers appointed under subsection (1) of this section, a county board of elections may appoint up to two (2) additional precinct election officers per precinct with the approval of the State Board of Elections. The state board shall promulgate an administrative regulation establishing conditions under which additional precinct officers may be approved.

(7) The county board of elections shall, within ten (10) days before the next ensuing election, give each election officer written notice of his appointment. The board may direct the sheriff of the county to serve the notice of appointment, if it deems the action is necessary.

(8) The State Board of Elections may require the county board of elections to submit its list of precinct officers for review. The State Board of Elections may, after a hearing, direct the removal of any election officer who the board finds would not fairly administer the state election laws. The state board shall replace any officer so removed. The board shall provide for the method and manner of the hearing by administrative regulation.

(9) An election officer shall be a qualified voter of the precinct; except that, where no qualified voter of the required political party is available within the precinct, the election officer shall be a qualified voter of the county. A minor seventeen (17) years of age who will become eighteen (18) years of age on or before the day of the regular election may serve as an election officer for the primary and regular elections in which he or she is qualified to vote; however, no precinct shall

have more than one (1) person serving as an election officer who is a minor seventeen (17) years of age. An election officer shall not be a candidate or the spouse, parent, brother, sister, or child of a candidate who is to be voted for at the election. An election officer shall not have changed his voter registration party affiliation for one (1) year prior to his appointment. An election officer may be removed, for cause, at any time up to five (5) days before an election. Vacancies shall be filled by the county board with alternate precinct election officers and the person appointed to fill the vacancy shall be of the same political party as the vacating officer, except for emergency appointments made as provided in subsection (5) of this section.

(10) If the county board of elections fails to appoint election officers, or if any officer is not present at the precinct at the time for commencing the election, or refuses to act, and if no alternate is available, the officer in attendance representing the political party of the absentee shall appoint a suitable person to act in his place for that election. If both representatives of the same political party are absent, qualified voters present affiliating with that party shall elect, viva voce, suitable persons to act in their places.

(11) Each election officer shall be paid a minimum of ***one hundred***[~~sixty~~] dollars ***($100)***[~~($60)~~] per election day served, and such an additional amount as compensation as may be determined by the county board of elections, with the approval of the governing body which would be responsible for funding the election officers' pay, for each election in which the election officer serves, to be paid by the county. For delivering the election packets to the polls, the precinct election officers shall receive in addition[~~ the mileage reimbursement provided for state employees, for each mile necessarily traveled in the delivery of the packets to the polls, or~~] a flat fee ***of ten dollars ($10)***[~~if the fee equals or exceeds that amount~~]. For delivering election returns, the precinct election judges shall receive[~~ in addition the mileage reimbursement provided for state employees for each mile necessarily traveled from the place of voting to and from the place of delivery, or~~] a flat fee ***of ten dollars ($10)***[~~if the fee equals or exceeds that amount~~]. The fee paid to the precinct election judges for delivering election returns shall be paid by the county.

Section 2. KRS 117.187 is amended to read as follows:

(1) The State Board of Elections shall regularly provide special training regarding the election laws and methods of enforcement to all members of county boards of elections, county attorneys, Commonwealth's attorneys, and certain members of the Kentucky State Police.

(2) The county board of elections shall provide special training before each primary and regular election to all election officers, alternates, and certified challengers regarding their duties and the penalties for failure to perform. Election officers, including alternates, and certified challengers shall attend the training session, unless excused by the county board of elections for reason of illness or other emergency. Any person who fails to attend a training session without being excused shall be prohibited from serving as an election officer or challenger for a period of five (5) years. The training provided by the county board of elections shall include, but not be limited to, the following:

(a) Operation of the voting machine or ballot cards;
(b) Posting of necessary signs and notices at the polling place;
(c) Voter assistance;
(d) Maintaining precinct rosters;
(e) Confirmation of a voter's identity;
(f) Challenge of a voter;
(g) Completing changes of address or name at the polling place;
(h) Qualifications for voting in a primary election;
(i) Electioneering and exit polling;
(j) Write-in voting procedures;
(k) Persons who may be in the voting room;
(l) Election violations and penalties;
(m) Assistance which may be provided by law enforcement officers; and
(n) Election reports.

(3) The county attorney shall attend the training session for election officers to assist in explaining the duties and penalties for failure to perform.

(4) Compensation in the minimum amount of ***twenty-five***[~~ten~~] dollars ***($25)***[~~($10)~~] for reimbursement of actual expenses shall be paid by the county to the election officers for attending the training session.

The Committee Substitute to **HB 209** is as follows:

HB 209, AN ACT relating to election officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.045 is amended to read as follows:

(1) The county board of elections shall in the manner prescribed by this section, not later than March 20 each year, except in a year in which no primary and regular elections are scheduled, appoint for each precinct in the county two (2) judges, one (1) clerk and one (1) sheriff of election. They shall serve in all elections held in the county during the year, except for minors seventeen (17) years of age who will become eighteen (18) years of age on or before the day of the regular election who may only serve as election officers for the primary and regular elections as provided in subsection (9) of this section. If a special election is ordered to be held in a year in which no elections are scheduled, the county executive committee of each political party in each county in the territory affected by the special election shall, not later than twenty-eight (28) days preceding the date of the special election, submit a written list of nominees for precinct election officers to serve in the special election in a manner consistent with the provisions of subsection (2) of this section. The county board of elections in each county in the territory affected by the special election shall, not later than twenty-one (21) days preceding the date of the special election, appoint precinct election officers to serve in the special election in a manner consistent with the provisions of subsections (4), (5), and (6) of this section. The State Board of Elections shall promulgate an administrative regulation establishing evaluation procedures which county boards of elections may use to qualify persons nominated to serve as precinct election officers.

(2) The county executive committees of the two (2) political parties having representation on the State Board of Elections may, on or before March 15 each year, designate in writing to the county board of elections a list of not less than four (4) names for each precinct; except that, in any precinct where there are not as many as four (4) persons possessing the qualifications of an election officer belonging to the political party filing the list, a lesser number may be designated. If there are two (2) or more contending executive committees of the same party in any county, the one recognized by the written certificate of the chairman of the state central committee of the party shall be the one authorized to submit the lists. The lists shall contain the full name, address, phone number, and Social Security number, if available, of each person listed. The lists shall be accompanied by a signed statement from each person stating that he is willing to serve, has not failed to serve without excuse in the past, and has not been convicted of an election law offense or any felony, unless the person's civil rights have been restored by the Governor. The State Board of Elections shall prescribe by administrative regulation the form of the list.

(3) The Attorney General shall notify each party state central committee of the duties of the party.

(4) If lists are submitted, the county board of elections shall select one (1) judge at each voting place from each political party's list, and the county board shall select the sheriff from one (1) political party's list and the clerk from the other. If no lists are submitted, the two (2) members of the county board of elections who are appointed by the State Board of Elections may submit lists; and the county board shall select the sheriff and one (1) judge from one (1) list and the clerk and the other judge from the remaining list. If no lists are submitted, the county board shall select the sheriff and one (1) judge from the membership of one (1) party and the clerk and the other judge from the membership of the remaining party. The county board shall, when possible, also appoint an adequate number of alternate precinct election officers from names on the lists which were submitted but which were not selected by the county board as precinct election officers. If alternate precinct election officers are not appointed from the lists of nominees who were not selected as precinct election officers, the county board of elections shall submit its method of selecting alternate precinct election officers to the State Board of Elections for its approval.

(5) If, after all reasonable efforts have been made, the county board of elections is unable to find two (2) qualified officers for each precinct who are affiliated with the two (2) political parties having representation on the State Board of Elections, the county board shall submit a list of emergency election officer appointments to the State Board of Elections. The county board shall also present, in writing, its efforts to recruit and appoint election officers as prescribed in subsection (4) of this section. The list of emergency appointments may include qualified voters not affiliated with the two (2) parties represented on the state board. The state board, after its review, may approve any or all of the emergency appointments submitted by the county board or may direct the county board to take other action. Any emergency appointment shall be made for the next ensuing election only.

(6) In addition to precinct election officers appointed under subsection (1) of this section, a county board of elections may appoint up to two (2) additional precinct election officers per precinct with the approval of the State Board of Elections. The state board shall promulgate an administrative regulation establishing conditions under which additional precinct officers may be approved.

(7) The county board of elections shall, within ten (10) days before the next ensuing election, give each election officer written notice of his appointment. The board may direct the sheriff of the county to serve the notice of appointment, if it deems the action is necessary.

(8) The State Board of Elections may require the county board of elections to submit its list of precinct officers for review. The State Board of Elections may, after a hearing, direct the removal of any election officer who the board finds would not fairly administer the state election laws. The state board shall replace any officer so removed. The board shall provide for the method and manner of the hearing by administrative regulation.

(9) An election officer shall be a qualified voter of the precinct; except that, where no qualified voter of the required political party is available within the precinct, the election officer shall be a qualified voter of the county. A minor seventeen (17) years of age who will become eighteen (18) years of age on or before the day of the regular election may serve as an

election officer for the primary and regular elections in which he or she is qualified to vote; however, no precinct shall have more than one (1) person serving as an election officer who is a minor seventeen (17) years of age. An election officer shall not be a candidate or the spouse, parent, brother, sister, or child of a candidate who is to be voted for at the election. An election officer shall not have changed his voter registration party affiliation for one (1) year prior to his appointment. An election officer may be removed, for cause, at any time up to five (5) days before an election. Vacancies shall be filled by the county board with alternate precinct election officers and the person appointed to fill the vacancy shall be of the same political party as the vacating officer, except for emergency appointments made as provided in subsection (5) of this section.

(10) If the county board of elections fails to appoint election officers, or if any officer is not present at the precinct at the time for commencing the election, or refuses to act, and if no alternate is available, the officer in attendance representing the political party of the absentee shall appoint a suitable person to act in his place for that election. If both representatives of the same political party are absent, qualified voters present affiliating with that party shall elect, viva voce, suitable persons to act in their places.

(11) Each election officer shall be paid a minimum of ***one hundred***[~~sixty~~] dollars ***($100)***[~~($60)~~] per election day served, and such an additional amount as compensation as may be determined by the county board of elections, with the approval of the governing body which would be responsible for funding the election officers' pay, for each election in which the election officer serves, to be paid by the county. For delivering the election packets to the polls, the precinct election officers shall receive in addition[~~ the mileage reimbursement provided for state employees, for each mile necessarily traveled in the delivery of the packets to the polls, or~~] a flat fee ***of ten dollars ($10)***[~~if the fee equals or exceeds that amount~~]. For delivering election returns, the precinct election judges shall receive[~~ in addition the mileage reimbursement provided for state employees for each mile necessarily traveled from the place of voting to and from the place of delivery, or~~] a flat fee ***of ten dollars ($10)***[~~if the fee equals or exceeds that amount~~]. The fee paid to the precinct election judges for delivering election returns shall be paid by the county.

Section 2. KRS 117.187 is amended to read as follows:

(1) The State Board of Elections shall regularly provide special training regarding the election laws and methods of enforcement to all members of county boards of elections, county attorneys, Commonwealth's attorneys, and certain members of the Kentucky State Police.

(2) The county board of elections shall provide special training before each primary and regular election to all election officers, alternates, and certified challengers regarding their duties and the penalties for failure to perform. Election officers, including alternates, and certified challengers shall attend the training session, unless excused by the county board of elections for reason of illness or other emergency. Any person who fails to attend a training session without being excused shall be prohibited from serving as an election officer or challenger for a period of five (5) years. The training provided by the county board of elections shall include, but not be limited to, the following:

(a) Operation of the voting machine or ballot cards;
(b) Posting of necessary signs and notices at the polling place;
(c) Voter assistance;
(d) Maintaining precinct rosters;
(e) Confirmation of a voter's identity;
(f) Challenge of a voter;
(g) Completing changes of address or name at the polling place;
(h) Qualifications for voting in a primary election;
(i) Electioneering and exit polling;
(j) Write-in voting procedures;
(k) Persons who may be in the voting room;
(l) Election violations and penalties;
(m) Assistance which may be provided by law enforcement officers; and
(n) Election reports.

(3) The county attorney shall attend the training session for election officers to assist in explaining the duties and penalties for failure to perform.

(4) Compensation in the minimum amount of ***twenty-five***[~~ten~~] dollars ***($25)***[~~($10)~~] for reimbursement of actual expenses shall be paid by the county to the election officers for attending the training session.

Section 3. KRS 117.345 is amended to read as follows:

(1) The cost of all elections held in any county shall be allowed by the fiscal court and paid by the county treasurer, except as otherwise provided by law.

(2) When the cost of any election has been allowed by the fiscal court and paid by the county treasurer, and within sixty (60)

days following the date of the election, the county treasurer shall certify a statement of the number of precincts in the county, the date, and kind of election to the State Board of Elections. The certification shall be filed within ninety (90) days after the election. Upon receipt of the certification and upon being satisfied as to the correctness thereof, the State Board of Elections shall issue its warrant upon the State Treasurer in favor of the county treasurer for the amount of ***seven hundred***[~~two hundred fifty five~~] dollars ***($700)***[~~($255)~~] for each precinct in the county.[~~ However, the State Board of Elections shall not remit to a county payment for election expenses for any precinct containing less than three hundred fifty (350) registered voters unless the county has received prior approval from the state board to establish a precinct containing less than three hundred fifty (350) registered voters.~~]

(3) Payments to any county under the provisions of subsection (2) of this section shall be terminated if and whenever it fails to renew a lease, contract, or lease and option with the State Property and Buildings Commission executed in connection with the acquisition of voting machines by the commission for the use of the county; and payments to any county shall be terminated whenever the county fails to pay any part of the rentals required for any effective period of the lease or if a county board of elections fails to provide training to precinct election officers required by KRS 117.187(2).

Section 4. To carry out the provisions of Sections 1, 2, and 3 of this Act, there is appropriated to the State Board of Elections out of the General Fund $2,433,900 in FY 2004-2005 and $2,433,900 in FY 2005-2006.

The Committee Amendment No. 1 Title to **HB 209** is as follows:

HB 209, By amending the title to read: "AN ACT relating to elections and making an appropriation therefor."

HB 211, AN ACT relating to payments to county clerks for election related expenses and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.343 is amended to read as follows:

The county clerk may request reimbursement from the State Board of Elections, for the cost of employing office personnel necessary for the conduct of elections, including the registration and purgation of voters in the county. Such reimbursement shall not exceed ***one dollar ($1)***[~~fifty cents ($0.50)~~] per registered voter in the county per year. Claims for reimbursement shall be submitted to the state board by July 31 of each year for employment costs for the preceding fiscal year. Claims shall be on forms provided by the State Board of Elections and shall show in detail the employee time and costs. If the State Board of Elections determines that the claims are valid and reasonable, the state board shall submit the claims to the Treasury for payment and they shall be paid within thirty (30) working days. The state board may issue administrative regulations prescribing the method and forms for documenting and submitting the claims.

Section 2. To carry out the provisions of Section 1 of this Act, there is appropriated to the State Board of Elections out of the general fund the sum of $2,720,000 in fiscal year 2004-2005, and $2,720,000 in fiscal year 2005-2006.

HB 306, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.035 is amended to read as follows:

(1) There shall be a county board of elections, which shall, at the direction and under the supervision of the State Board of Elections, administer the election laws and the registration and purgation of voters within the county.

(2) ***(a)*** The board shall consist of the county clerk, the sheriff, and two (2) members appointed by the State Board of Elections not later than July 1 following the election of persons to statewide office, for a term of four (4) years and until their successors are appointed. The first board shall be appointed within one (1) month following December 1, 1972, and serve until successors are appointed in April, 1976.

(b) The sheriff shall not serve on the board during any year in which he is a candidate, but shall recommend to the board a temporary replacement to serve in his place, subject to approval by the board.

(c) The county clerk may, at his option, continue to serve on the board during a year in which he is a candidate. If the clerk elects not to serve, he shall recommend a temporary replacement to serve in his place, subject to approval by the board.

(d) If the board rejects a replacement recommended by the sheriff or the county clerk ***under paragraph (b) or (c) of this subsection***, a new name shall be recommended until a temporary appointment is approved by the board.

(e) Notwithstanding the provisions of KRS 61.080, service on the board of elections shall be compatible with the holding of any other county or city office. The members shall be at least twenty-one (21) years of age, qualified voters in the county from which they are appointed, and shall not have been convicted of any election law offense. One (1) member shall be appointed from a list of five (5) names submitted by the county executive committee of each of the two (2) political parties that polled the largest number of votes in the state at the last preceding election for presidential electors. If there are two (2) or more contending executive committees of the same party in any county, the one recognized by the written certificate of the chairman of the state central committee of the party shall be the one authorized to submit the lists. Appointees may be removed by the State Board of Elections for cause. A member appointed by the State Board of Elections may be removed upon a request approved by a two-thirds (2/3) vote of the county executive committee that submitted the member's name. If an appointee is temporarily unable to act, a temporary appointee shall be named by the State Board of Elections. A temporary appointee shall serve until the original appointee notifies the State Board of Elections that he is able to resume his term. ***A member appointed by the State Board of Elections shall not serve on the board if he or she is a candidate for public office, and the member shall resign upon filing papers to become a candidate for public office or shall be removed from office by the State Board of Elections. A member who resigns or is removed because of his or her candidacy shall not resume his or her term following the completion of the candidacy.*** Vacancies and temporary vacancies shall be filled in the same manner as provided for original appointments, and the person appointed to fill the vacancy or temporary vacancy shall be of the same political party as his predecessor.

(f) Compensation and payment of actual expenses of members shall be set by the fiscal court either as an amount payable on an annual basis, or as an amount payable on a per diem basis of not less than fifteen dollars ($15) nor more than one hundred dollars ($100) for each day the board meets.

(3) A majority of the board shall constitute a quorum. The county clerk shall serve as chairman of the meetings and may vote. In case of a tie, the chairman may cast an additional vote. Records shall be kept of all proceedings, and the records shall be public and kept at the office of the county clerk.

(4) The board shall meet at least once a month and may meet more frequently if necessary. The board shall stay in session on election days to correct clerical errors and rule on questions regarding voter registration and may make to the election officers such certifications as may be necessary. On election days, appeals may be made to a Circuit Judge, but a ruling of the board shall be reversed only upon a finding that it was arbitrary and capricious.

(5) In counties containing cities of the first and second class, the board may employ, on a bipartisan basis, a staff sufficient to carry out the duties assigned to the board.

Section 2. KRS 117.345 is amended to read as follows:

(1) The cost of all elections held in any county shall be allowed by the fiscal court and paid by the county treasurer, except as otherwise provided by law.

(2) When the cost of any election has been allowed by the fiscal court and paid by the county treasurer, and within sixty (60) days following the date of the election, the county treasurer shall certify a statement of the number of precincts in the county, the date, and kind of election to the State Board of Elections. The certification shall be filed within ninety (90) days after the election. Upon receipt of the certification and upon being satisfied as to the correctness thereof, the State Board of Elections shall issue its warrant upon the State Treasurer in favor of the county treasurer for the amount of two hundred fifty-five dollars ($255) for each precinct in the county.[~~ However, the State Board of Elections shall not remit to a county payment for election expenses for any precinct containing less than three hundred fifty (350) registered voters unless the county has received prior approval from the state board to establish a precinct containing less than three hundred fifty (350) registered voters.~~]

(3) Payments to any county under the provisions of subsection (2) of this section shall be terminated if and whenever it fails to renew a lease, contract, or lease and option with the State Property and Buildings Commission executed in connection with the acquisition of voting machines by the commission for the use of the county; and payments to any county shall be terminated whenever the county fails to pay any part of the rentals required for any effective period of the lease or if a county board of elections fails to provide training to precinct election officers required by KRS 117.187(2).

Section 3. KRS 117.187 is amended to read as follows:

(1) The State Board of Elections shall regularly provide special training regarding the election laws and methods of enforcement to all members of county boards of elections, county attorneys, Commonwealth's attorneys, and certain members of the Kentucky State Police.

(2) The county board of elections shall provide special training before each primary and regular election to all election officers, alternates, and certified challengers regarding their duties and the penalties for failure to perform. Election officers, including alternates, and certified challengers shall attend the training session, unless excused by the county board of elections for reason of illness or other emergency. Any person who fails to attend a training session without being excused shall be prohibited from serving as an election officer or challenger for a period of five (5) years. The training provided by the county board of elections shall include, but not be limited to, the following:

(a) Operation of the voting machine or ballot cards;

(b) Posting of necessary signs and notices at the polling place;

(c) Voter assistance;

(d) Maintaining precinct rosters;

(e) Confirmation of a voter's identity;

(f) Challenge of a voter;

(g) Completing changes of address or name at the polling place;

(h) Qualifications for voting in a primary election;

(i) Electioneering and exit polling;

(j) Write-in voting procedures;

(k) Persons who may be in the voting room;

(l) Election violations and penalties;

(m) Assistance which may be provided by law enforcement officers;[~~ and~~]

(n) Election reports*;*

(o) Disability awareness; and

(p) Provisional voting process.

(3) The county attorney shall attend the training session for election officers to assist in explaining the duties and penalties for failure to perform.

(4) Compensation in the minimum amount of ten dollars ($10) for reimbursement of actual expenses shall be paid by the county to the election officers for attending the training session.

Section 4. KRS 117.235 is amended to read as follows:

(1) No person, other than the election officers, challengers, and a minor child in the company of a voter, shall be permitted within the voting room while the vote is being polled, except for the purpose of voting or except by authority of the election officers to keep order and enforce the law. At the voter's discretion, a minor child in the company of a voter may accompany the voter into a voting booth or other private area provided for casting a vote.

(2) ***No person who is permitted within the voting room under subsection (1) of this section shall use paper, telephone, a personal telecommunications device, or a computer or other information technology system, for the purpose of creating a checkoff list or otherwise recording the identity of voters within the voting room, except for the official use of the precinct signature roster furnished or approved by the State Board of Elections that is otherwise permitted by law. For purposes of this subsection, "personal telecommunications device" means a device that emits an audible signal, vibrates, displays a message, or otherwise summons or delivers a communication to the possessor, including, but not limited to, a paging device or a cellular telephone.***

(3) No officer of election shall do any electioneering on election day.

(4)[~~(3)~~] No person shall, on the day of any election as established in KRS 118.025, do any electioneering at the polling place or within a distance of five hundred (500) feet of a county clerk's office or any entrance to a building in which a voting machine is located if that entrance is unlocked and is used by voters on election day, unless the fiscal court or legislative body of an urban-county government, on a countywide basis, specifically prohibits electioneering on the day of any election by ordinance for a distance greater than five hundred (500) feet from the polling place. Electioneering shall include the displaying of signs, the distribution of campaign literature, cards, or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any candidate or question on the ballot in any manner, but shall not include exit polling. Nothing contained in this section shall prohibit electioneering conducted within a private residence or establishment other than that in which the polling place is located by persons having an ownership interest in such property.

(5)[~~(4)~~] No voter shall be permitted to converse with others while in any room in which voting, including absentee voting, is conducted concerning their support or nonsupport of any candidate, party, or issue to be voted on, except as provided in KRS 117.255.

(6)[~~(5)~~] Any precinct election officer, county clerk, deputy county clerk, or any law enforcement official may enforce the election laws and maintain law and order at the polls and within five hundred (500) feet of any entrance to the building in which the voting machine is located if that entrance is unlocked and is used by voters. Assistance may be requested of any law enforcement officer.

(7)[~~(6)~~] Notwithstanding the provisions of subsection (1) of this section, the State Board of Elections may establish a program designed to instill in school children a respect for the democratic principles of voting by conducting in any county a mock election for school children in conjunction with any regular, primary, or special election. The State Board of Elections shall promulgate administrative regulations regarding the mock elections to insure that the regular voting process will not be impaired.

The Committee Substitute to **HB 306** is as follows:

HB 306, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.035 is amended to read as follows:

(1) There shall be a county board of elections, which shall, at the direction and under the supervision of the State Board of Elections, administer the election laws and the registration and purgation of voters within the county.

(2) *(a)* The board shall consist of the county clerk, the sheriff, and two (2) members appointed by the State Board of Elections not later than July 1 following the election of persons to statewide office, for a term of four (4) years and until their successors are appointed. The first board shall be appointed within one (1) month following December 1, 1972, and serve until successors are appointed in April, 1976.

(b) The sheriff shall not serve on the board during any year in which he is a candidate, but shall recommend to the board a temporary replacement to serve in his place, subject to approval by the board.

(c) The county clerk may, at his option, continue to serve on the board during a year in which he is a candidate. If the clerk elects not to serve, he shall recommend a temporary replacement to serve in his place, subject to approval by the board.

(d) If the board rejects a replacement recommended by the sheriff or the county clerk ***under paragraph (b) or (c) of this subsection***, a new name shall be recommended until a temporary appointment is approved by the board.

(e) Notwithstanding the provisions of KRS 61.080, service on the board of elections shall be compatible with the holding of any other county or city office. The members shall be at least twenty-one (21) years of age, qualified voters in the county from which they are appointed, and shall not have been convicted of any election law offense. One (1) member shall be appointed from a list of five (5) names submitted by the county executive committee of each of the two (2) political parties that polled the largest number of votes in the state at the last preceding election for presidential electors. If there are two (2) or more contending executive committees of the same party in any county, the one recognized by the written certificate of the chairman of the state central committee of the party shall be the one authorized to submit the lists. Appointees may be removed by the State Board of Elections for cause. A member appointed by the State Board of Elections may be removed upon a request approved by a two-thirds (2/3) vote of the county executive committee that submitted the member's name. If an appointee is temporarily unable to act, a temporary appointee shall be named by the State Board of Elections. A temporary appointee shall serve until the original appointee notifies the State Board of Elections that he is able to resume his term. ***A member appointed by the State Board of Elections shall not serve on the board if he or she is a candidate for public office, and the member shall resign upon filing papers to become a candidate for public office or shall be removed from office by the State Board of Elections. A member who resigns or is removed because of his or her candidacy shall not resume his or her term following the completion of the candidacy.*** Vacancies and temporary vacancies shall be filled in the same manner as provided for original appointments, and the person appointed to fill the vacancy or temporary vacancy shall be of the same political party as his predecessor.

(f) Compensation and payment of actual expenses of members shall be set by the fiscal court either as an amount payable on an annual basis, or as an amount payable on a per diem basis of not less than fifteen dollars ($15) nor more than one hundred dollars ($100) for each day the board meets.

(3) A majority of the board shall constitute a quorum. The county clerk shall serve as chairman of the meetings and may vote. In case of a tie, the chairman may cast an additional vote. Records shall be kept of all proceedings, and the records shall be public and kept at the office of the county clerk.

(4) The board shall meet at least once a month and may meet more frequently if necessary. The board shall stay in session on election days to correct clerical errors and rule on questions regarding voter registration and may make to the election officers such certifications as may be necessary. On election days, appeals may be made to a Circuit Judge, but a ruling of the board shall be reversed only upon a finding that it was arbitrary and capricious.

(5) In counties containing cities of the first and second class, the board may employ, on a bipartisan basis, a staff sufficient to carry out the duties assigned to the board.

Section 2. KRS 117.345 is amended to read as follows:

(1) The cost of all elections held in any county shall be allowed by the fiscal court and paid by the county treasurer, except as otherwise provided by law.

(2) When the cost of any election has been allowed by the fiscal court and paid by the county treasurer, and within sixty (60) days following the date of the election, the county treasurer shall certify a statement of the number of precincts in the county, the date, and kind of election to the State Board of Elections. The certification shall be filed within ninety (90) days after the election. Upon receipt of the certification and upon being satisfied as to the correctness thereof, the State Board of Elections shall issue its warrant upon the State Treasurer in favor of the county treasurer for the amount of two hundred fifty-five dollars ($255) for each precinct in the county.~~[However, the State Board of Elections shall not remit to a county payment for election expenses for any precinct containing less than three hundred fifty (350) registered voters unless the county has received prior approval from the state board to establish a precinct containing less than three hundred fifty (350) registered voters.]~~

(3) Payments to any county under the provisions of subsection (2) of this section shall be terminated if and whenever it fails to renew a lease, contract, or lease and option with the State Property and Buildings Commission executed in connection with

the acquisition of voting machines by the commission for the use of the county; and payments to any county shall be terminated whenever the county fails to pay any part of the rentals required for any effective period of the lease or if a county board of elections fails to provide training to precinct election officers required by KRS 117.187(2).

Section 3. KRS 117.187 is amended to read as follows:

(1) The State Board of Elections shall regularly provide special training regarding the election laws and methods of enforcement to all members of county boards of elections, county attorneys, Commonwealth's attorneys, and certain members of the Kentucky State Police.

(2) The county board of elections shall provide special training before each primary and regular election to all election officers, alternates, and certified challengers regarding their duties and the penalties for failure to perform. Election officers, including alternates, and certified challengers shall attend the training session, unless excused by the county board of elections for reason of illness or other emergency. Any person who fails to attend a training session without being excused shall be prohibited from serving as an election officer or challenger for a period of five (5) years. The training provided by the county board of elections shall include, but not be limited to, the following:

(a) Operation of the voting machine or ballot cards;
(b) Posting of necessary signs and notices at the polling place;
(c) Voter assistance;
(d) Maintaining precinct rosters;
(e) Confirmation of a voter's identity;
(f) Challenge of a voter;
(g) Completing changes of address or name at the polling place;
(h) Qualifications for voting in a primary election;
(i) Electioneering and exit polling;
(j) Write-in voting procedures;
(k) Persons who may be in the voting room;
(l) Election violations and penalties;
(m) Assistance which may be provided by law enforcement officers;~~[and]~~
(n) Election reports***;***
(o) Disability awareness; and
(p) Provisional voting process.

(3) The county attorney shall attend the training session for election officers to assist in explaining the duties and penalties for failure to perform.

(4) Compensation in the minimum amount of ten dollars ($10) for reimbursement of actual expenses shall be paid by the county to the election officers for attending the training session.

SECTION 4. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

No election officer, challenger, voter, or other person permitted by law within the voting room, shall use paper, telephone, a personal telecommunications device, or a computer or other information technology system, for the purpose of creating a checkoff list or otherwise recording the identity of voters within the voting room, except for the official use of the precinct signature roster furnished or approved by the State Board of Elections that is otherwise permitted by law. For purposes of this section: "personal telecommunications device" means a device that emits an audible signal, vibrates, displays a message, or otherwise summons or delivers a communication to the possessor, including, but not limited to, a paging device or cellular telephone.

The Committee on Agriculture and Small Business reported **HB 305**, with Committee Substitute and Committee Amendment attached thereto, and **HB 361**, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 305, AN ACT relating to retailers of farm equipment and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 365.800 is amended to read as follows:

As used in KRS ***365.800***~~[365.805]~~ to 365.840, unless the context requires otherwise:

(1) "Current net price on parts" means the price listed by ***a supplier***~~[the wholesaler, manufacturer or distributor of farm implements, tractors, farm machinery, utility and industrial equipment, including lawn and garden equipment, attachments or repair parts for such equipment]~~ in a price list or catalogue in effect at the time ***a retail agreement***~~[the]~~ contract is ***terminated***~~[canceled or discontinued]~~, less any applicable trade and cash discounts;

(2) "Retailer" means any person, firm***,*** or corporation***, including heirs, personal representatives, guardians, trustees, assignees, or receivers of the person, firm, or corporation,*** engaged in the business of selling and retailing ***inventory***[~~farm implements, tractors, farm machinery, utility and industrial equipment, including lawn and garden equipment, attachments, and repair parts for such equipment~~], but shall not include retailers of petroleum ***or***[~~,~~] motor vehicle and related automotive care and replacement products[~~ normally sold by such retailers. The term "retailer" shall also include any person engaged in the aforementioned business, his heirs, personal representatives, or his guardian~~];

(3) "Inventory" means farm implements, tractors, farm machinery, ***consumer products,*** utility and industrial equipment, ***and any***[~~ including lawn and garden equipment,~~] attachments,[~~ and~~] repair parts***, or superseded parts*** for ***the***[~~such~~] equipment;[~~ and~~]

(4) "Net cost" means the price ***a***[~~ the~~] retailer paid for the inventory to ***a supplier***[~~the wholesaler, manufacturer or distributor of such inventory~~], less all discounts allowed***;***

(5) "Consumer products" means machines designed for or adapted and used for horticulture, floriculture, landscaping, grounds maintenance, or turf maintenance, including but not limited to lawnmowers, rototillers, trimmers, blowers, and other equipment used in both residential and commercial lawn, gardening, or turf maintenance, installation, or other applications;

(6) "Superseded parts" means any part that will provide the same function as a currently available part as of the date of termination of a retail agreement contract; and

(7) "Supplier" means any wholesaler, manufacturer, or distributor of inventory, or any purchaser of assets or stock of any surviving corporation resulting from a merger or liquidation, or any receiver, assignee, or trustee of the original wholesaler, manufacturer, distributor, or corporation.

Section 2. KRS 365.805 is amended to read as follows:

If a[~~Whenever any~~] retailer enters into a ***retail***[~~franchise~~] agreement ***contract, written or unwritten,*** with a ***supplier where***[~~wholesaler, manufacturer or distributor of inventory wherein~~] the retailer agrees to maintain an inventory and the contract is terminated, ***the supplier***[~~then such wholesaler, manufacturer or distributor~~] shall repurchase the inventory as provided in KRS ***365.800***[~~365.810~~] to 365.840. The retailer may keep the inventory if ***the retainer***[~~he~~] desires. If the retailer has any outstanding debts to the ***supplier,***[~~wholesaler, manufacturer or distributor then~~] the repurchase amount may be credited to the retailer's account.

Section 3. KRS 365.810 is amended to read as follows:

(1) ***(a)*** The ***supplier***[~~wholesaler, manufacturer or distributor of inventory~~] shall repurchase[~~ that~~] inventory previously purchased from ***the supplier***[~~him~~] and held by the retailer on the date of termination of the ***retail agreement*** contract. The ***supplier***[~~wholesaler, manufacturer or distributor of inventory~~] shall pay one hundred percent (100%) of the net cost, plus any freight charges paid, of all new, unsold, undamaged***,*** and complete farm implements, tractors, farm machinery, utility and industrial equipment, ***consumer products,***[~~including lawn and garden equipment~~] and ***any*** attachments ***for the equipment,*** and one hundred percent (100%) of the current net price of all new, unused***,*** and undamaged repair parts ***or superseded parts***.

(b) The supplier shall repurchase inventory used in demonstrations, including inventory leased or rented primarily for demonstration or lease purposes, at its agreed depreciated value, if the equipment is in like-new condition and has not been damaged.

(2) The ***supplier***[~~wholesaler, manufacturer or distributor~~] shall pay the retailer five percent (5%) of the current net price on all new, unused***,*** and undamaged repair parts ***or superseded parts*** returned to cover the cost of handling, packing***,*** and loading. The ***supplier may perform***[~~wholesaler, manufacturer or distributor shall have the option of performing~~] the handling, packing, and loading in lieu of paying the five percent (5%) of the current net price for these services.

(3) (a) The supplier shall purchase from the retailer, at its amortized value, any specific data processing hardware and software and telecommunications equipment that the supplier required the retailer to purchase within five (5) years of the termination of the retail agreement contract.

(b) The supplier shall repurchase from the retailer, at seventy-five percent (75%) of the net cost, specialized repair tools purchased within three (3) years of the date of the termination of the retail agreement contract, and, at fifty percent (50%) of the net cost, specialized repair tools purchased more than three (3) but less than six (6) years of the date of the termination of the retail agreement contract, if:

1. The supplier required the purchase;

2. The retailer held the tools on the date of the termination of the retail agreement contract;

3. The tools were unique to the supplier's product line; and

4. The tools were in complete and resalable condition.

Section 4. KRS 365.815 is amended to read as follows:

Upon payment of the repurchase amount to the retailer, the title and right of possession to the repurchased inventory shall transfer to the ***supplier***[~~wholesaler, manufacturer or distributor of such inventory~~]. ***Annually, at the end of each calendar year after the termination of a retail agreement contract, the retailer's reserve accounts for recourse contracts shall not be debited by a***

supplier or lender for any deficiency unless the retailer has been given at least seven (7) business days notice by registered U.S. mail, return receipt requested, of any proposed sale of the equipment financed and has been given an opportunity to purchase the equipment. The former retailer shall be given quarterly status reports on any remaining outstanding recourse contracts. As the recourse contracts are reduced, any reserve account funds shall be returned to the retailer in direct proportion to the liabilities outstanding.

Section 5. KRS 365.820 is amended to read as follows:

The provisions of KRS 365.800 to 365.840 shall not require the repurchase from a retailer of:

(1) Any repair part ***or superseded part*** which has a limited storage life or is otherwise subject to deterioration, such as rubber items, gaskets, or batteries;

(2) Any repair part ***or superseded part*** which is in a broken or damaged package;

(3) Any single repair part ***or superseded part*** which is priced as a set of two (2) or more items;

(4) Any inventory for which the retailer is unable to furnish evidence, satisfactory to the ***supplier***[~~wholesaler, manufacturer or distributor~~], of clear title, free and clear of all claims, liens, and encumbrances;

(5) Any inventory which the retailer desires to keep, provided the retailer has a contractual right to do so;

(6) Any inventory which is not in a new, unused, and undamaged condition***, except that inventory used in demonstrations or leased, as provided in Section 3 of this Act, shall be considered new and unused***;

(7) Any inventory which was ordered by the retailer on or after the date of notification of termination of the contract; ***or***[~~and~~]

(8) Any inventory which was acquired by the retailer from any source other than the ***supplier***[~~wholesaler, manufacturer or distributor~~].

Section 6. KRS 365.825 is amended to read as follows:

If any ***supplier fails***[~~wholesaler, manufacturer or distributor of inventory shall fail~~] or ***refuses***[~~refuse~~] to repurchase any inventory covered under the provisions of KRS 365.800 to 365.840 within sixty (60) days after shipment of ***the***[~~such~~] inventory to the ***supplier***[~~wholesaler, manufacturer or distributor~~], ***the supplier***[~~he~~] shall be liable in a civil action for one hundred percent (100%) of the current net price of the repair parts ***and superseded parts*** inventory plus five percent (5%) for handling, packing, and loading, if applicable, and one hundred percent (100%) of the net cost of all other inventory, plus any freight charges paid by the retailer, the retailer's reasonable attorney's fees, court costs, and interest on the current net price computed at the legal interest rate from the sixty-first day after shipment.

Section 7. KRS 365.830 is amended to read as follows:

(1) In the event of the death of a retailer or the majority stockholder of a corporation operating as a retailer, the supplier shall, at the option of the heirs of the retailer or the majority stockholder, repurchase the inventory from the heirs as if the supplier had terminated the retail agreement contract. The heirs shall have one (1) year from the date of the death of the retailer or majority stockholder to exercise their option regarding the repurchase. No repurchase of any inventory shall be required if the heirs and the supplier enter into a new retail agreement contract to operate the retail dealership. As used in this section, "heir" means a spouse, child, son-in-law, daughter-in-law, or lineal descendant of the retailer or majority stockholder of the dealership.

(2) A supplier shall have ninety (90) days in which to consider and make a determination on a request by an heir to enter into a new retail agreement contract to operate the retail dealership. In the event the supplier determines that the request is not acceptable, the supplier shall provide the heir with a written notice of its determination with the stated reasons for nonacceptance. This section does not entitle an heir to operate a dealership without the specific written consent of the supplier.

(3) If a supplier and a retailer or majority stockholder of a corporation operating as a retailer have previously executed an agreement concerning succession rights prior to the retailer's or majority stockholder's death, and if the agreement had not been revoked, the agreement shall be observed even if it designates someone other than the surviving heirs of the decedent as the successor[~~In the event of death or incapacity of the retailer or insolvency of the corporation operating as a retailer, the wholesaler, manufacturer or distributor of inventory shall, at the option of the heir, personal representative, guardian or receiver, repurchase the inventory from such heir, personal representative, guardian or receiver as if the wholesaler, manufacturer or distributor had terminated the contract. The heirs, personal representative, guardian or receiver shall have up to one (1) year from the date of death, incapacity or insolvency to exercise their option under KRS 365.800 to 365.840. Nothing in this chapter shall require the repurchase of any inventory if the heir, personal representative, guardian, receiver or retailer and wholesaler, manufacturer or distributor enter into a new contract to operate the retail dealership~~].

Section 8. KRS 365.835 is amended to read as follows:

The provisions of KRS 365.800 to 365.840 shall not be construed to affect in any way any security interest which the ***supplier***[~~wholesaler, manufacturer or distributor of inventory~~] may have in the inventory of the retailer, and any repurchase[~~hereunder~~] shall not be subject to the provisions of the bulk sales law. The retailer ***or supplier***[~~, wholesaler, manufacturer or distributor of inventory~~] may***, in person or through a representative,***[~~furnish a representative to~~] inspect all ***inventory***[~~parts~~] and certify ***its***[~~their~~] acceptability when ***it is*** packed for shipment ***to the supplier under a repurchase arrangement. Failure of the*** *supplier to provide a representative to inspect the inventory within sixty (60) days of the notice of termination shall result in automatic acceptance by the supplier of all returned items*.

Section 9. KRS 365.840 is amended to read as follows:

The provisions of KRS 365.800 to *365.840*[~~365.835~~] shall apply to all *retail agreement* contracts *entered into before the effective date of this Act*[~~ now in effect, contracts~~] which have no expiration date and are a continuing contract*,* and all other contracts entered into or renewed *on or after the effective date of this Act*[~~as of February 28, 1986~~]. Any contract in force *before the effective date of this Act*[~~and effect after February 28, 1986~~], which by its own terms will terminate on a date *after the effective date of this Act*[~~subsequent thereto~~] shall be governed by the law as it existed prior to *the effective date of this Act*[~~February 28, 1986~~].

SECTION 10. A NEW SECTION OF KRS 365.800 TO 365.840 IS CREATED TO READ AS FOLLOWS:

(1) No supplier, directly or through an officer, agent, or employee, shall terminate or substantially change the competitive circumstances of a retail agreement contract without good cause. As used in this subsection, "good cause" means the failure by a retailer to comply with requirements imposed upon the retailer by the retail agreement contract if the requirements are not different from those imposed on other retailers similarly situated in this state. In addition, good cause exists if:

(a) There has been a closeout or sale of a substantial part of the retailer's assets related to the equipment business, or there has been a commencement of a dissolution or liquidation of the retailer;

(b) The retailer has changed its principal place of business or added additional locations without prior approval of the supplier, which shall not be unreasonably withheld;

(c) The retailer has substantially defaulted under a chattel mortgage or other security agreement between the retailer and the supplier, or there has been a revocation or discontinuance of a guarantee of a present or future obligation of the retailer to the supplier;

(d) The retailer has failed to operate in the normal course of business for seven (7) consecutive days or has otherwise abandoned the business;

(e) The retailer has pleaded guilty to or has been convicted of a felony affecting the relationship between the retailer and supplier; or

(f) The retailer transfers an interest in the dealership; or a person with a substantial interest in the ownership or control of the dealership, including an individual proprietor, partner, or major shareholder, withdraws from the dealership or dies; or a substantial reduction occurs in the interest of an individual proprietor, partner, or major shareholder in the dealership. Good cause does not exist if the supplier consents to an action described in this subsection.

(2) No supplier, directly or through an officer, agent, or employee, shall terminate or substantially change the competitive circumstances of a retail agreement contract based on high unemployment in the dealership market area, a labor dispute, the results of a natural disaster, including a sustained drought, or other circumstances beyond the retailer's control.

(3) Except as provided in subsection (1) of this section, a supplier shall provide a retailer with at least ninety (90) days written notice of termination of a retail agreement contract and a sixty (60) day written notice to cure the deficiency. If the deficiency is cured within the sixty (60) day allotted time, the notice is void. In the case where termination is enacted due to market penetration, a reasonable period of time, not less than one (1) year, shall have existed where the supplier has worked with the retailer to gain the desired market share. The notice shall state all reasons constituting good cause for action.

SECTION 11. A NEW SECTION OF KRS 365.800 TO 365.840 IS CREATED TO READ AS FOLLOWS:

No supplier shall:

(1) Coerce any retailer to accept delivery of inventory which the retailer has not ordered voluntarily, except as required by any applicable law, or unless parts or attachments are safety parts or attachments required by a supplier;

(2) Condition the sale of additional inventory to a retailer on a requirement that the retailer also purchase other goods or services, except that a supplier may require the retailer to purchase those parts reasonably necessary to maintain the quality of operation of the inventory used in the retailer's designated trade area; or

(3) Coerce a retailer into refusing to purchase inventory manufactured by another supplier.

SECTION 12. A NEW SECTION OF KRS 365.800 TO 365.840 IS CREATED TO READ AS FOLLOWS:

(1) Claims filed by a retailer for payment under warranty agreements shall be approved or disapproved within thirty (30) days of receipt by the supplier. All claims for payment shall be paid within thirty (30) days of their approval. If any claim is disapproved, the supplier shall notify the retailer within thirty (30) days stating the specific grounds upon which the disapproval is based. If a claim is not specifically disapproved within thirty (30) days of receipt, it shall be deemed approved and payment by the supplier shall be within thirty (30) days.

(2) If, after termination of a retail agreement contract, a retailer submits a claim to the supplier for warranty work performed prior to the effective date of the termination, the supplier shall accept or reject the claim within thirty (30)

days of receipt. All claims for payment shall be paid within thirty (30) days of their acceptance. If any claim is rejected, the supplier shall notify the retailer within thirty (30) days stating the specific grounds upon which the rejection is based. If a claim is not specifically rejected within thirty (30) days of receipt, it shall be deemed accepted and payment by the supplier shall be within thirty (30) days.

(3) Warranty work performed by a retailer shall be compensated in accordance with the reasonable and customary amount of time required to complete the work, expressed in hours and fractions of hours, multiplied by the retailer's established customer hourly retail labor rate, which shall have previously been made known to the supplier.

(4) Expenses expressly excluded under the supplier's warranty to the customer shall not be included nor required to be paid on requests for compensation from a retailer for warranty work performed.

(5) Expenses for all parts used by a retailer in performing warranty work shall be paid to the retailer in the amount equal to the retailer's net price for parts used, plus a minimum of fifteen percent (15%). The percentage additive is to reimburse the retailer for reasonable costs of doing business in performing warranty service on the supplier's behalf, including, but not limited to, freight and handling costs incurred.

(6) The supplier has the right to adjust for errors discovered during audit, and if necessary, to adjust claims paid in error.

(7) A retailer may accept the manufacturer's reimbursement terms and conditions in lieu of the other provisions provided by this section.

SECTION 13. A NEW SECTION OF KRS 365.800 TO 365.840 IS CREATED TO READ AS FOLLOWS:

The provisions of KRS 365.800 to 365.840 shall not be waivable in any retail agreement contract, and any attempted waiver shall be void.

Section 14. Whereas the early spring is the most important time for the farming industry and any relief to farm equipment dealers offered by this bill would be negated by a later effective date, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Substitute to **HB 305** is as follows:

HB 305, AN ACT relating to retailers of farm equipment and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 365.800 is amended to read as follows:

As used in KRS *365.800*~~[365.805]~~ to 365.840, unless the context requires otherwise:

(1) "Current net price on parts" means the price listed by *a supplier*~~[the wholesaler, manufacturer or distributor of farm implements, tractors, farm machinery, utility and industrial equipment, including lawn and garden equipment, attachments or repair parts for such equipment]~~ in a price list or catalogue in effect at the time *a retail agreement*~~[the]~~ contract is *terminated*~~[canceled or discontinued]~~, less any applicable trade and cash discounts;

(2) "Retailer" means any person, firm*,* or corporation*, including heirs, personal representatives, guardians, trustees, assignees, or receivers of the person, firm, or corporation,* engaged in the business of selling and retailing *inventory*~~[farm implements, tractors, farm machinery, utility and industrial equipment, including lawn and garden equipment, attachments, and repair parts for such equipment]~~, but shall not include retailers of petroleum *or*~~[,]~~ motor vehicle and related automotive care and replacement products~~[normally sold by such retailers. The term "retailer" shall also include any person engaged in the aforementioned business, his heirs, personal representatives, or his guardian]~~;

(3) "Inventory" means farm implements, tractors, farm machinery, *consumer products,* utility and industrial equipment, *construction and excavating equipment, and any*~~[including lawn and garden equipment,]~~ attachments,~~[and]~~ repair parts*,* *or superseded parts* for *the*~~[such]~~ equipment;~~[and]~~

(4) "Net cost" means the price *a*~~[the]~~ retailer paid for the inventory to *a supplier*~~[the wholesaler, manufacturer or distributor of such inventory]~~, less all discounts allowed*;*

(5) "Consumer products" means machines designed for or adapted and used for horticulture, floriculture, landscaping, grounds maintenance, or turf maintenance, including but not limited to lawnmowers, rototillers, trimmers, blowers, and other equipment used in both residential and commercial lawn, gardening, or turf maintenance, installation, or other applications;

(6) "Superseded parts" means any part that will provide the same function as a currently available part as of the date of termination of a retail agreement contract; and

(7) "Supplier" means any wholesaler, manufacturer, or distributor of inventory, or any purchaser of assets or stock of any surviving corporation resulting from a merger or liquidation, or any receiver, assignee, or trustee of the original wholesaler, manufacturer, distributor, or corporation.

Section 2. KRS 365.805 is amended to read as follows:

If a~~[Whenever any]~~ retailer enters into a *retail*~~[franchise]~~ agreement *contract, written or unwritten,* with a *supplier where*~~[wholesaler, manufacturer or distributor of inventory wherein]~~ the retailer agrees to maintain an inventory and the contract is terminated, ***the supplier***[~~then such wholesaler, manufacturer or distributor~~] shall repurchase the inventory as provided in KRS ***365.800***[~~365.810~~] to 365.840. The retailer may keep the inventory if ***the retainer***[~~he~~] desires. If the retailer has any outstanding debts to the ***supplier,***[~~wholesaler, manufacturer or distributor then~~] the repurchase amount may be credited to the retailer's account.

Section 3. KRS 365.810 is amended to read as follows:

(1) ***(a)*** The ***supplier***[~~wholesaler, manufacturer or distributor of inventory~~] shall repurchase[~~ that~~] inventory previously purchased from ***the supplier***[~~him~~] and held by the retailer on the date of termination of the ***retail agreement*** contract. The ***supplier***[~~wholesaler, manufacturer or distributor of inventory~~] shall pay one hundred percent (100%) of the net cost, plus any freight charges paid, of all new, unsold, undamaged***,*** and complete farm implements, tractors, farm machinery, utility and industrial equipment, ***construction and excavating equipment, consumer products,***[~~including lawn and garden equipment~~] and ***any*** attachments ***for the equipment,*** and one hundred percent (100%) of the current net price of all new, unused***,*** and undamaged repair parts ***or superseded parts***.

(b) The supplier shall repurchase inventory used in demonstrations, including inventory leased or rented primarily for demonstration or lease purposes, at its agreed depreciated value, if the equipment is in like-new condition and has not been damaged.

(2) The ***supplier***[~~wholesaler, manufacturer or distributor~~] shall pay the retailer five percent (5%) of the current net price on all new, unused***,*** and undamaged repair parts ***or superseded parts*** returned to cover the cost of handling, packing***,*** and loading. The ***supplier may perform***[~~wholesaler, manufacturer or distributor shall have the option of performing~~] the handling, packing, and loading in lieu of paying the five percent (5%) of the current net price for these services.

(3) (a) The supplier shall purchase from the retailer, at its amortized value, any specific data processing hardware and software and telecommunications equipment that the supplier required the retailer to purchase within five (5) years of the termination of the retail agreement contract.

(b) The supplier shall repurchase from the retailer, at seventy-five percent (75%) of the net cost, specialized repair tools purchased within three (3) years of the date of the termination of the retail agreement contract, and, at fifty percent (50%) of the net cost, specialized repair tools purchased more than three (3) but less than six (6) years of the date of the termination of the retail agreement contract, if:

1. The supplier required the purchase;

2. The retailer held the tools on the date of the termination of the retail agreement contract;

3. The tools were unique to the supplier's product line; and

4. The tools were in complete and resalable condition.

(4) The supplier shall purchase from the retailer, at its amortized value, any specific signage incorporating the supplier's name, logo, tradename, trademark, or other information identifying the supplier or the products manufactured or distributed by the supplier which the supplier expressly required the retailer to purchase in connection with the retail agreement contract.

(5) If, in a retail agreement contract, the supplier requires the retailer's employees to participate in training programs sponsored or promoted by the supplier, then the supplier shall reimburse the retailer for any out-of-pocket expenses incurred by the retailer. The reimbursement shall only be required if the training took place within one (1) year of the termination of the retail agreement contract.

(6) The supplier shall purchase from the retailer, at its amortized value, all trade fixtures and other improvements to the business premises of the retailer that the supplier expressly required the retailer to purchase or acquire in connection with the retail agreement contract.

Section 4. KRS 365.815 is amended to read as follows:

Upon payment of the repurchase amount to the retailer, the title and right of possession to the repurchased inventory shall transfer to the ***supplier***[~~wholesaler, manufacturer or distributor of such inventory~~]. ***Annually, at the end of each calendar year after the termination of a retail agreement contract, the retailer's reserve accounts for recourse contracts shall not be debited by a supplier or lender for any deficiency unless the retailer has been given at least seven (7) business days notice by registered U.S. mail, return receipt requested, of any proposed sale of the equipment financed and has been given an opportunity to purchase the equipment. The former retailer shall be given quarterly status reports on any remaining outstanding recourse contracts. As the recourse contracts are reduced, any reserve account funds shall be returned to the retailer in direct proportion to the liabilities outstanding.***

Section 5. KRS 365.820 is amended to read as follows:

The provisions of KRS 365.800 to 365.840 shall not require the repurchase from a retailer of:

(1) Any repair part ***or superseded part*** which has a limited storage life or is otherwise subject to deterioration, such as rubber items, gaskets***,*** or batteries;

(2) Any repair part ***or superseded part*** which is in a broken or damaged package;

(3) Any single repair part ***or superseded part*** which is priced as a set of two (2) or more items;

(4) Any inventory for which the retailer is unable to furnish evidence, satisfactory to the ***supplier***[~~wholesaler, manufacturer or distributor~~], of clear title, free and clear of all claims, liens***,*** and encumbrances;

(5) Any inventory which the retailer desires to keep, provided the retailer has a contractual right to do so;

(6) Any inventory which is not in a new, unused***,*** and undamaged condition***, except that inventory used in demonstrations or leased, as provided in Section 3 of this Act, shall be considered new and unused***;

(7) Any inventory which was ordered by the retailer on or after the date of notification of termination of the contract; ***or***[~~and~~]

(8) Any inventory which was acquired by the retailer from any source other than the ***supplier***[~~wholesaler, manufacturer or distributor~~].

Section 6. KRS 365.825 is amended to read as follows:

If any ***supplier fails***[~~wholesaler, manufacturer or distributor of inventory shall fail~~] or ***refuses***[~~refuse~~] to repurchase any inventory covered under the provisions of KRS 365.800 to 365.840 within sixty (60) days after shipment of ***the***[~~such~~] inventory to the ***supplier***[~~wholesaler, manufacturer or distributor~~], ***the supplier***[~~he~~] shall be liable in a civil action for one hundred percent (100%) of the current net price of the repair parts ***and superseded parts*** inventory plus five percent (5%) for handling, packing***,*** and loading, if applicable***,*** and one hundred percent (100%) of the net cost of all other inventory, plus any freight charges paid by the retailer, the retailer's reasonable attorney's fees, court costs***,*** and interest on the current net price computed at the legal interest rate from the sixty-first day after shipment.

Section 7. KRS 365.830 is amended to read as follows:

(1) In the event of the death of a retailer or the majority owner of the equity interests of the entity operating as a retailer, the supplier shall, at the option of the heirs of the retailer or the majority owner, repurchase the inventory from the heirs as if the supplier had terminated the retail agreement contract. The heirs shall have one (1) year from the date of the death of the retailer or majority owner to exercise their option regarding the repurchase. No repurchase of any inventory shall be required if the heirs and the supplier enter into a new retail agreement contract to operate the retail dealership. As used in this section, "heir" means a spouse, child, son-in-law, daughter-in-law, or lineal descendant of the retailer or majority owner of the dealership.

(2) A supplier shall have ninety (90) days in which to consider and make a determination on a request by an heir to enter into a new retail agreement contract to operate the retail dealership. In the event the supplier determines that the request is not acceptable, the supplier shall provide the heir with a written notice of its determination with the stated reasons for nonacceptance. This section does not entitle an heir to operate a dealership without the specific written consent of the supplier.

(3) If a supplier and a retailer or majority owner of the equity interests of the entity operating as a retailer have previously executed an agreement concerning succession rights prior to the retailer's or majority owner's death, and if the agreement had not been revoked, the agreement shall be observed even if it designates someone other than the surviving heirs of the decedent as the successor[~~In the event of death or incapacity of the retailer or insolvency of the corporation operating as a retailer, the wholesaler, manufacturer or distributor of inventory shall, at the option of the heir, personal representative, guardian or receiver, repurchase the inventory from such heir, personal representative, guardian or receiver as if the wholesaler, manufacturer or distributor had terminated the contract. The heirs, personal representative, guardian or receiver shall have up to one (1) year from the date of death, incapacity or insolvency to exercise their option under KRS 365.800 to 365.840. Nothing in this chapter shall require the repurchase of any inventory if the heir, personal representative, guardian, receiver or retailer and wholesaler, manufacturer or distributor enter into a new contract to operate the retail dealership~~].

Section 8. KRS 365.835 is amended to read as follows:

The provisions of KRS 365.800 to 365.840 shall not be construed to affect in any way any security interest which the ***supplier***[~~wholesaler, manufacturer or distributor of inventory~~] may have in the inventory of the retailer, and any repurchase[~~ hereunder~~] shall not be subject to the provisions of the bulk sales law. The retailer ***or supplier***[~~, wholesaler, manufacturer or distributor of inventory~~] may***, in person or through a representative,***[~~ furnish a representative to~~] inspect all ***inventory***[~~parts~~] and certify ***its***[~~their~~] acceptability when ***it is*** packed for shipment ***to the supplier under a repurchase arrangement. Failure of the supplier to provide a representative to inspect the inventory within sixty (60) days of the notice of termination shall result in automatic acceptance by the supplier of all returned items***.

Section 9. KRS 365.840 is amended to read as follows:

The provisions of KRS 365.800 to ***365.840***[~~365.835~~] shall apply to all ***retail agreement*** contracts ***entered into before the effective date of this Act***[~~ now in effect, contracts~~] which have no expiration date and are a continuing contract***,*** and all other contracts entered into or renewed ***on or after the effective date of this Act***[~~as of February 28, 1986~~]. Any contract in force ***before the effective date of this Act***[~~and effect after February 28, 1986~~], which by its own terms will terminate on a date ***after the effective date of this Act***[~~subsequent thereto~~] shall be governed by the law as it existed prior to ***the effective date of this Act***[~~February 28, 1986~~].

SECTION 10. A NEW SECTION OF KRS 365.800 TO 365.840 IS CREATED TO READ AS FOLLOWS:

(1) No supplier, directly or through an officer, agent, or employee, shall terminate or substantially change the competitive circumstances of a retail agreement contract without good cause. As used in this subsection, "good cause" means the

failure by a retailer to comply with requirements imposed upon the retailer by the retail agreement contract if the requirements are not different from those imposed on other retailers similarly situated in this state. In addition, good cause exists if:

(a) There has been a closeout or sale of a substantial part of the retailer's assets related to the equipment business, or there has been a commencement of a dissolution or liquidation of the retailer;

(b) The retailer has changed its principal place of business or added additional locations without prior approval of the supplier, which shall not be unreasonably withheld;

(c) The retailer has substantially defaulted under a chattel mortgage or other security agreement between the retailer and the supplier, or there has been a revocation or discontinuance of a guarantee of a present or future obligation of the retailer to the supplier;

(d) The retailer has failed to operate in the normal course of business for seven (7) consecutive days or has otherwise abandoned the business;

(e) The retailer has pleaded guilty to or has been convicted of a felony affecting the relationship between the retailer and supplier; or

(f) The retailer transfers an interest in the dealership; or a person with a substantial interest in the ownership or control of the dealership, including an individual proprietor, partner, or major shareholder, withdraws from the dealership or dies; or a substantial reduction occurs in the interest of an individual proprietor, partner, or major shareholder in the dealership. Good cause does not exist if the supplier consents to an action described in this subsection.

(2) No supplier, directly or through an officer, agent, or employee, shall terminate or substantially change the competitive circumstances of a retail agreement contract based on high unemployment in the dealership market area, a labor dispute, the results of a natural disaster, including a sustained drought, or other circumstances beyond the retailer's control.

(3) Except as provided in paragraphs (a) to (f) of subsection (1) of this section, a supplier shall provide a retailer with at least ninety (90) days written notice of termination of a retail agreement contract. The notice shall also contain a sixty (60) day written notice to cure the deficiency. The notice shall not be required if the termination is enacted for reasons included in paragraphs (a) to (f) of subsection (1) of this section. The notice shall state all reasons constituting good cause for action. In the case where termination is enacted due to market penetration, a reasonable period of time, not less than one (1) year, shall have existed where the supplier has worked with the retailer to gain the desired market share.

SECTION 11. A NEW SECTION OF KRS 365.800 TO 365.840 IS CREATED TO READ AS FOLLOWS:

No supplier shall:

(1) Coerce any retailer to accept delivery of inventory which the retailer has not ordered voluntarily, except as required by any applicable law, or unless parts or attachments are safety parts or attachments required by a supplier;

(2) Condition the sale of additional inventory to a retailer on a requirement that the retailer also purchase other goods or services, except that a supplier may require the retailer to purchase those parts reasonably necessary to maintain the quality of operation of the inventory used in the retailer's designated trade area; or

(3) Coerce a retailer into refusing to purchase inventory manufactured by another supplier.

SECTION 12. A NEW SECTION OF KRS 365.800 TO 365.840 IS CREATED TO READ AS FOLLOWS:

(1) Claims filed by a retailer for payment under warranty agreements shall be approved or disapproved within thirty (30) days of receipt by the supplier. All claims for payment shall be paid within thirty (30) days of their approval. If any claim is disapproved, the supplier shall notify the retailer within thirty (30) days stating the specific grounds upon which the disapproval is based. If a claim is not specifically disapproved within thirty (30) days of receipt, it shall be deemed approved and payment by the supplier shall be within thirty (30) days.

(2) If, after termination of a retail agreement contract, a retailer submits a claim to the supplier for warranty work performed prior to the effective date of the termination, the supplier shall accept or reject the claim within thirty (30) days of receipt. All claims for payment shall be paid within thirty (30) days of their acceptance. If any claim is rejected, the supplier shall notify the retailer within thirty (30) days stating the specific grounds upon which the rejection is based. If a claim is not specifically rejected within thirty (30) days of receipt, it shall be deemed accepted and payment by the supplier shall be within thirty (30) days.

(3) Warranty work performed by a retailer shall be compensated in accordance with the reasonable and customary amount of time required to complete the work, expressed in hours and fractions of hours, multiplied by the retailer's established customer hourly retail labor rate, which shall have previously been made known to the supplier.

(4) Expenses expressly excluded under the supplier's warranty to the customer shall not be included nor required to be paid on requests for compensation from a retailer for warranty work performed.

(5) Expenses for all parts used by a retailer in performing warranty work shall be paid to the retailer in the amount equal to the retailer's net price for parts used, plus a minimum of fifteen percent (15%). The percentage additive is to

reimburse the retailer for reasonable costs of doing business in performing warranty service on the supplier's behalf, including, but not limited to, freight and handling costs incurred.

(6) The supplier has the right to adjust for errors discovered during audit, and if necessary, to adjust claims paid in error.

(7) A retailer may accept the manufacturer's reimbursement terms and conditions in lieu of the other provisions provided by this section.

SECTION 13. A NEW SECTION OF KRS 365.800 TO 365.840 IS CREATED TO READ AS FOLLOWS:

The provisions of KRS 365.800 to 365.840 shall not be waivable in any retail agreement contract, and any attempted waiver shall be void.

Section 14. Whereas the early spring is the most important time for the farming industry and any relief to farm equipment dealers offered by this bill would be negated by a later effective date, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Amendment No. 1 Title to **HB 305** is as follows:

HB 305, Amend the title to read as follows: "AN ACT relating to retail agreement contracts and declaring an emergency.".

HB 361, AN ACT relating to rural development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

(1) There is established the Rural Enhancement and Development Committee as a permanent subcommittee of the Legislative Research Commission. The purpose of the committee shall be to review rural development programs and consider rural development policies that will improve the quality of life for citizens within rural areas of the Commonwealth. The following rural issues are among those that shall be reviewed by the committee:

(a) Job creation;

(b) Infrastructure development, including telecommunications and broadband access; and

(c) Improvements in health care, education, agriculture, and transportation services.

(2) The duties of the committee shall include but not be limited to the following:

(a) Identify and contact organizations that have rural development programs within the state, both governmental and non-governmental, and complete a comprehensive inventory of those programs and their functions;

(b) Receive testimony from representatives of organizations having rural development programs to determine what coordination exists among the organizations, and to better understand the needs of Kentucky's rural areas;

(c) Explore the potential organizational structure of a Federally Recognized State Rural Development Council, and determine the steps required for its creation;

(d) Consider the creation of a group that advocates for rural development within Kentucky;

(e) Recommend legislation to:

1. Coordinate and streamline existing state rural development programs and polices for improved efficiency;

2. Facilitate collaboration among federal, state, and local government agencies, both urban and rural; the private sector; and nonprofit groups in the planning and implementation of programs and policies that impact Kentucky's rural areas; and

3. Promote effective development and sustained growth within rural areas of the Commonwealth; and

(f) Submit the committee's findings and determinations by November 1 of each year to the Legislative Research Commission for distribution to the appropriate interim joint committees.

(3) The committee shall consist of twelve (12) members, appointed as follows:

(a) Four (4) members of the Senate appointed by the President of the Senate;

(b) Two (2) members of the minority party in the Senate appointed by the Minority Floor Leader in the Senate;

(c) Four (4) members of the House of Representatives appointed by the Speaker of the House of Representatives; and

(d) Two (2) members of the minority party in the House of Representatives appointed by the Minority Floor Leader in the House of Representatives.

(4) Members of the committee shall serve for terms of two (2) years.

(5) Members appointed from each chamber shall elect one (1) member from their chamber to serve as co-chair. The co-chairs shall have joint responsibilities for committee meeting agendas and presiding at committee meetings.

(6) Any vacancy that may occur shall be filled pursuant to subsection (3) of this section by the same appointing authority that made the original appointment.

(7) The committee shall meet at least four (4) times annually.

(8) A majority of the entire membership of the committee shall constitute a quorum, and all actions of the committee shall be by vote of a majority of its entire membership.

(9) Members shall be compensated for attending meetings as provided in KRS 7.090(3) and 7.110(5).

Calendar

HB 37, 195, HCR 66, HB 319, 341, 22, 76, 108, 189, 228, 256, 257, and **269** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order. Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 22, 37, 76, 108, 189, 195, 228, 256, 257, 269, 319, HCR 66, HB 126, 258,** and **149** have been posted for passage in the Regular Orders of the Day for January 30, 2004.

Orders of the Day

HB 50, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of the Committee Substitute to **HB 50**. Agreed.

Representative Hoover moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 50**.

Representative Geveden inquired whether Floor Amendment No. 1 to the Committee Substitute to **HB 50** was germane.

The Speaker stated that **HB 50** applies to statewide offices and not local or district offices and ruled that Floor Amendment No. 1 to **HB 50** was not germane.

Representative Geveden moved that **HB 50**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 50, Nays 43**. (See January 29, 2004, roll call on **HB 50** - Appendix.)

HB 50, by way of Committee Substitute, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 50**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 2 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 2** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See January 29, 2004, roll call on **HB 2** - Appendix.)

HB 2 was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 2** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 242, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of the Committee Substitute to **HB 242**. Agreed.

Representative Lindsay moved that **HB 242**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See January 29, 2004, roll call on **HB 242** - Appendix.)

HB 242, by way of Committee Substitute, was passed and the title agreed to.

Representative Lindsay moved that the vote by which **HB 242**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 19 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 19** be passed.

On the roll call the vote was: **Yeas 85, Nays 9**. (See January 29, 2004, roll call on **HB 19** - Appendix.)

HB 19 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 19** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 295 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved that **HB 295** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See January 29, 2004, roll call on **HB 295** - Appendix.)

HB 295 was passed and the title agreed to.

Representative Bruce moved that the vote by which **HB 295** was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message

Announcing passage **SB 16, 17, 40, 64,** and **79**. (3:20 p.m.)

Orders of the Day (Continued)

HB 116, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Lee moved the adoption of the Committee Substitute to **HB 116**. Agreed.

Representative J. Lee moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 116**. Agreed.

Representative J. Lee moved that **HB 116**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See January 29, 2004, roll call on **HB 116** - Appendix.)

HB 116, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative J. Lee moved that the vote by which **HB 116**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 253, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HB 253**. Agreed.

Representative Burch moved that **HB 253**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See January 29, 2004, roll call on **HB 253** - Appendix.)

HB 253, by way of Committee Substitute, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 253**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 21 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 21** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See January 29, 2004, roll call on **HB 21** - Appendix.)

HB 21 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 21** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 15, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved the adoption of the Committee Substitute to **HB 15**. Agreed.

Representative Yonts moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 15**. Agreed.

Representative Yonts moved that **HB 15**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See January 29, 2004, roll call on **HB 15** - Appendix.)

HB 15, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Yonts moved that the vote by which **HB 15**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Burch moved that **HB 213** be withdrawn. Agreed.

Representative Weaver moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Weaver moved that he be recorded as voting "yea" on **HB 2**. Agreed.

Representative Ford moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Ford moved that he be recorded as voting "yea" on **HB 72, 159, 286, HCR 16, 26,** and **36**. Agreed.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 406, by Representative A. Arnold: AN ACT relating to fire protection districts.

HB 407, by Representative Richards: AN ACT relating to crimes and punishments.

HB 408, by Representative Gooch: AN ACT relating to cosmetology fees.

HB 409, by Representative Hoover: AN ACT relating to placing inmates on home incarceration.

HB 410, by Representative Hoover: AN ACT relating to sex offenders.

HB 411, by Representative Graham: AN ACT relating to resignations by school personnel.

HB 412, by Representatives Marzian and Brinkman: AN ACT relating to the merger of fire protection districts.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Judiciary: **HB 308**

Local Government: **HB 147, 373, 388**

State Government: **HB 272, 278, 290**

The following Resolution has been withdrawn from Committee consideration:

Banking and Insurance: **HCR 41**

Motions, Petitions, and Communications (Continued)

Representative Adkins moved to suspend the rules to act on a Resolution. Agreed.

Representative Callahan moved the adoption of the following **HR 96**:

HR 96, A RESOLUTION declaring January 29, 2004 as Preservation Day in Kentucky and adjourning the House of Representatives in honor of the Kentucky Heritage Council and the Renaissance Kentucky Main Street Program.

WHEREAS, Kentucky's preservation efforts include: the fourth highest number of listings in the National Register of Historic Places; 30 National Historic Landmarks; the oldest statewide main street program, which this year celebrates its 25th anniversary; and the innumerable persons and organizations who dedicate themselves to preserving historic places and a sense of heritage; and

WHEREAS, Kentucky has a significant number of historic places throughout the Commonwealth that are worthy of preservation and useful to the ongoing economic health of our communities; and

WHEREAS, it is important for the citizens of the Commonwealth to be reminded of the value of these historic places and to have opportunities to learn more about our heritage as Kentuckians as reflected in these buildings, sites, structures and places; and

WHEREAS, communities that protect their historic fabric and encourage investment in historic preservation efforts are consistently demonstrating an improved quality of life for their citizens; and

WHEREAS, historic preservation projects are proven economic generators that work to create jobs, attract investment, stimulate tourism, attract new businesses, increase property values, and improve the economic climate of a community; and

WHEREAS, historic preservation strategies can be a part of managing growth and development through creating incentives for investment in the historic areas of a community; and

WHEREAS, representatives from communities throughout the Commonwealth will attend the Renaissance Kentucky Main Street Program Winter Meeting on January 28 to January 30, 2004;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives recognizes and applauds the Kentucky Heritage Council and the State Historic Preservation Office for their many years of dedicated service to the citizens of the Commonwealth of Kentucky and does hereby declare, Thursday, January 29, 2004 as Preservation Day in Kentucky.

Section 2. When the House of Representatives adjourns this day, it does so in honor of the Kentucky Heritage Council and the Renaissance Kentucky Main Street Program.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. David L. Morgan, Executive Director, Heritage Council, 300 Washington Street, Frankfort, Kentucky 40601.

There being no objection, **HR 96** was adopted.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 37**, by Representative Rasche:

HB 37, On page 1, line 21, delete "***Between the ages of eighteen (18) and twenty-one (21)***" and insert "***Eighteen (18) to twenty (20) years of age***" in lieu thereof; and

On page 4, line 20, delete ";" and insert "***,***" in lieu thereof;

On page 5, line 17, delete "***board of education***" and insert "***Board of Education***" in lieu thereof.

Floor Amendment No. 1 to **HB 350**, by Representative Miller:

HB 350, On page 1, after the enacting clause delete the bill in its entirety and insert in lieu thereof the following:

"Section 1. KRS 189.394 is amended to read as follows:

(1) The fines for speeding in violation of KRS 189.390 shall be:

Mph. Over Limit	Prima Facie or Maximum Speed 15	20	25	30	35	40	45	50	55	60	65	Fine
1	16	21	26	31	36	41	46	51	56	61	66	$1
2	17	22	27	32	37	42	47	52	57	62	67	2
3	18	23	28	33	38	43	48	53	58	63	68	3
4	19	24	29	34	39	44	49	54	59	64	69	4
5	20	25	30	35	40	45	50	55	60	65	70	5
6	21	26	31	36	41	46	51	56	61	66	71	16
7	22	27	32	37	42	47	52	57	62	67	72	17
8	23	28	33	38	43	48	53	58	63	68	73	18
9	24	29	34	39	44	49	54	59	64	69	74	19
10	25	30	35	40	45	50	55	60	65	70	75	20
11	26	31	36	41	46	51	56	61	66	71	76	22
12	27	32	37	42	47	52	57	62	67	72	77	24
13	28	33	38	43	48	53	58	63	68	73	78	26
14	29	34	39	44	49	54	59	64	69	74	79	28
15	30	35	40	45	50	55	60	65	70	75	80	30
16	31	36	41	46	51	56	61	66	71	76	81	32
17	32	37	42	47	52	57	62	67	72	77	82	34
18	33	38	43	48	53	58	63	68	73	78	83	36
19	34	39	44	49	54	59	64	69	74	79	84	38
20	35	40	45	50	55	60	65	70	75	80	85	40
21	36	41	46	51	56	61	66	71				43
22	37	42	47	52	57	62	67	72				46
23	38	43	48	53	58	63	68	73				49
24	39	44	49	54	59	64	69	74				52
25	40	45	50	55	60	65	70	75				55

(2) For speeding in excess of the speeds shown on the specific fine schedule the fine shall be not less than sixty dollars ($60) nor more than one hundred dollars ($100).

(3) For any violation shown on the chart for which a specific fine is prescribed, the defendant may elect to pay the fine and court costs to the circuit clerk before the date of his trial or to be tried in the normal manner. Payment of the fine and court costs to the clerk shall be considered as a plea of guilty for all purposes.

(4) If the offense charged shows a speed in excess of the speeds shown on the specific fine schedule the defendant shall appear for trial and may not pay the fine to the clerk before the trial date.

(5) If the offense occurred in a highway work zone, the fine established by subsection (1) or (2) of this section shall be doubled.

(6) All fines collected for speeding in a highway work zone in violation of KRS 189.390 shall be deposited into a separate trust and agency account within the Transportation Cabinet known as the "Highway Work Zone Safety Fund." The highway work zone safety fund shall be used exclusively by the Transportation Cabinet to hire or pay for enhanced law enforcement of traffic laws within highway work zones.

(7) If the offense occurred in an area near a school where flasher lights have been installed and are flashing, and a speed limit has been set pursuant to KRS 189.336, the fine established by subsection (1) or (2) of this section shall be doubled.".

Floor Amendment No. 5 to the Committee Substitute to **HB 108**, by Representative Marzian:

HB 108, By deleting everything after the enacting clause and inserting in lieu thereof the following:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 508 IS CREATED TO READ AS FOLLOWS:

(1) *As used in this section:*

(a) *"Health care provider" includes health care providers defined in KRS 304.17A-005 and any other provider of health care required by the laws of the Commonwealth of Kentucky to be licensed or certified;*

(b) *"Miscarriage" means the interruption of the normal development of the fetus, other than by a live birth or by an induced abortion to which the woman has consented, that results in the complete expulsion or extraction of the fetus from the pregnant woman; and*

(b) *"Stillbirth" means the death of a fetus prior to the complete expulsion or extraction from a woman, without regard to the duration of the pregnancy, that is not an induced abortion to which the woman has consented.*

(2) *A person who in the commission of a felony causes injury to a woman, knowing the woman to be pregnant, which injury results in a miscarriage or stillbirth by the woman is guilty of a felony that is one class higher than the one committed.*

(3) *A person who in the commission of a misdemeanor that is an act of domestic violence and abuse, as defined in KRS 403.720 causes injury to a woman, knowing the woman to be pregnant, which results in a miscarriage or stillbirth by the woman is guilty of a misdemeanor that is one class higher than the misdemeanor committed, or, if there be no higher misdemeanor, the person shall be guilty of a Class D felony. If the Commonwealth desires to utilize the provisions of this subsection, the Commonwealth shall indict the defendant and the case shall be tried in the Circuit Court as a felony case.*

(4) *Nothing in this section shall apply to:*

(a) *Acts of health care providers that result in miscarriage or stillbirth if those acts were committed:*

1. *During any abortion to which the woman has consented;*

2. *Incident to an in vitro fertilization procedure; or*

3. *As part of or incident to diagnostic testing or therapeutic medical treatment, provided that the health care provider exercised that degree of care and skill which an ordinarily careful, skilled, and prudent health care provider would exercise under the same or similar circumstances; or*

(b) *Acts of a pregnant woman that result in a miscarriage or stillbirth.*".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills:

HB 11, Representative L. Clark

HB 113, Representatives Comer and Barrows

HB 116, Representatives L. Clark, Hoffman, Buckingham, Sims, and Riggs

HB 203, Representative Draud

HB 207, Representative Sims

HB 341, Representative Barrows

HB 376, Representatives Burch, Wayne, Bather, Bratcher, Miller, L. Clark, Hoffman, P. Clark, Wilkey, Horlander, Marzian, Meeks, Riggs, and Crimm

HB 408, Representative Collins

The following member filed a request to have his name withdrawn as a co-sponsor of a Bill:

HB 13, Representative Couch

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 9:00 a.m., Friday, January 30, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 9:00 a.m., Friday, January 30, 2004, was adopted by voice vote.

FRIDAY, JANUARY 30, 2004

EIGHTEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Representative R. Adams.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives J. Adams, Bather, Jenkins, Miller, Mobley, and Nunn.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 29, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and a Resolution:

Agriculture and Small Business: **HB 404**

Appropriations and Revenue: **HB 405**

Education: **HB 411**

Health and Welfare: **HB 400**

Judiciary: **HB 401, 402, 407, 409, 410**

Labor and Industry: **HB 403**

Licensing & Occupations: **HB 408**

Local Government: **HB 406, 412**

Transportation: **HB 399, HJR 107**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Judiciary: **HB 359, 371, 389, 77**

Calendar

HB 74, 90, 100, 260, 322, HCR 78, HB 326, 350, 209, 211, 306, 305, and **361** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 263, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Graham moved the adoption of the Committee Substitute to **HB 263**. Agreed.

Representative Graham moved that **HB 263**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 86, Nays 0**. (See January 30, 2004, roll call on **HB 263** - Appendix.)

HB 263, by way of Committee Substitute, was passed and the title agreed to.

Representative Graham moved that the vote by which **HB 263**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 37, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved the adoption of the Committee Substitute to **HB 37**. Agreed.

Representative Yonts moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 37**. Agreed.

Representative Yonts moved that **HB 37**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 85, Nays 2**. (See January 30, 2004, roll call on **HB 37** - Appendix.)

HB 37, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Yonts moved that the vote by which **HB 37**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 126, with Committee Substitutes attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meeks moved the adoption of the Committee Substitute No. 2 to **HB 126**. Agreed.

Representative Meeks moved that **HB 126**, by way of Committee Substitute No. 2, be passed.

On the roll call the vote was: **Yeas 89, Nays 0**. (See January 30, 2004, roll call on **HB 126** - Appendix.)

HB 126, by way of Committee Substitute No. 2, was passed and the title agreed to.

Representative Meeks moved that the vote by which **HB 126**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 283, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of the Committee Substitute to **HB 283**. Agreed.

Representative Thomas moved that **HB 283**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 81, Nays 4**. (See January 30, 2004, roll call on **HB 283** - Appendix.)

HB 283, by way of Committee Substitute, was passed and the title agreed to.

Representative Thomas moved that the vote by which **HB 283**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 258, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved the adoption of Committee Amendment No. 1 to **HB 258**. Agreed.

Representative Riggs moved that **HB 258**, as amended, be passed.

On the roll call the vote was: **Yeas 89, Nays 0**. (See January 30, 2004, roll call on **HB 258** - Appendix.)

HB 258, as amended, was passed and the title agreed to.

Representative Riggs moved that the vote by which **HB 258**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 273 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved that **HB 273** be passed.

On the roll call the vote was: **Yeas 90, Nays 0**. (See January 30, 2004, roll call on **HB 273** - Appendix.)

HB 273 was passed and the title agreed to.

Representative Weaver moved that the vote by which **HB 273** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 189 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Denham moved that **HB 189** be passed.

On the roll call the vote was: **Yeas 89, Nays 0**. (See January 30, 2004, roll call on **HB 189** - Appendix.)

HB 189 was passed and the title agreed to.

Representative Denham moved that the vote by which **HB 189** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 66 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HCR 66** be adopted.

On the roll call the vote was: **Yeas 91, Nays 0**. (See January 30, 2004, roll call on **HCR 66** - Appendix.)

HCR 66 was adopted.

Representative Adkins moved that the vote by which **HCR 66** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 269, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of Committee Amendment No. 1 to **HB 269**. Agreed.

Representative Moberly moved that **HB 269**, as amended, be passed.

On the roll call the vote was: **Yeas 91, Nays 1**. (See January 30, 2004, roll call on **HB 269** - Appendix.)

HB 269, as amended, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 269**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 108, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of the Committee Substitute to **HB 108**. Agreed.

Representative Hoffman moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 108**. Agreed.

Representative Damron moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 108**. Agreed.

Pursuant to House Rule No. 12, Representative Damron moved the previous question on the enactment of **HB 108**.

On the roll call on the motion for the previous question the vote was: **Yeas 89, Nays 0**. (See January 30, 2004, roll call on **HB 108** - Appendix.)

The motion for the previous question passed.

Representative Damron moved that **HB 108**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 88, Nays 5**. (See January 30, 2004, roll call on **HB 108** - Appendix.)

HB 108, by way of Committee Substitute, as amended, was passed.

Representative Damron moved the adoption of Floor Amendment No. 2 Title to **HB 108**. Agreed.

Representative Damron moved that the vote by which **HB 108**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stacy moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Stacy moved that he be recorded as voting "yea" on **HB 263** and **37**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Crenshaw moved that he be recorded as voting "yea" on **HB 263, 189, 126,** and **258**. Agreed.

Representative Wilkey moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Wilkey moved that he be recorded as voting "yea" on **HB 258** and **273**. Agreed.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 413, by Representative Riggs: AN ACT making an appropriation to local government police departments and declaring an emergency.

HB 414, by Representative Riggs: AN ACT relating to fines for traffic offenses.

HB 415, by Representative Gray: AN ACT relating to heating, ventilation, and air conditioning.

HB 416, by Representatives Lindsay and Simpson: AN ACT relating to continuing education.

HB 417, by Representatives Walton, Draud, Marcotte, Simpson, Graham, Kerr, Siler, Marzian, and Stein: AN ACT relating to school employees and declaring an emergency.

HB 418, by Representative Adkins: AN ACT relating to the Kentucky Asset/Liability Commission.

HB 419, by Representative McKee: AN ACT relating to accessible parking placards.

HB 420, by Representatives Belcher and De. Butler: AN ACT relating to public accountancy.

HR 108, by Representative Damron: A RESOLUTION adjourning the House of Representatives in honor of the Grand Lodge of Kentucky.

HR 109, by Representatives Callahan and Walton: A RESOLUTION supporting the electric generation acquisition plans of Cinergy's Union Light, Heat and Power Company.

HB 421, by Representatives Brinkman, P. Clark, and Horlander: AN ACT relating to property taxes.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and a Resolution have been posted for Committee consideration:

Education: **HB 309, 36, 398**

Seniors, Military Affairs, & Public Safety: **HB 392**

Appropriations and Revenue: **HB 162, 157**

Local Government: **HB 294, HJR 12**

The following Bill has been withdrawn from Committee consideration:

Labor and Industry: **HB 64**

Floor Amendments

Floor Amendment No. 1 to **HB 22**, by Representative Yonts:

HB 22, On page 1, line 21, after "*any party*" insert "***or by an immediate family member of the respondent***".

Floor Amendment No. 2 to **HB 350**, by Representative Riggs:

HB 350, On page 2, after line 25, insert the following new section:

"Section 2. KRS 189.336 is amended to read as follows:

(1) Fiscal courts, with respect to school zones situated in unincorporated areas, may authorize by resolution installation at county expense of school flasher lights and other traffic control devices on highways in school zones as they deem reasonable and necessary.

(2) Cities, with respect to school zones within their incorporated areas, may authorize by ordinance installation at city expense of school flasher lights and other traffic control devices on highways in school zones as they deem reasonable and necessary.

(3) The speed limit on all highways where school flasher lights are in operation shall be determined by the governmental unit having control of the highway where a school flasher light is in operation. Flasher lights shall be placed one-eighth (1/8) of a mile on each side of the principal school building where practical. The governmental unit having control of the highway where the lights are in operation shall erect signs notifying motorists of the speed limit.

(4) ***The governmental unit that installs flasher lights under the provisions of this section shall ensure the lights are continually maintained and monitored for proper operation. Any flasher light found to be inoperative shall immediately be repaired or replaced.***

(5) Highways" as used in this section shall mean any public road or street maintained by a city, county or the state.

(6)[~~(5)~~] Any traffic control devices erected by any governmental unit shall conform to standards and specifications authorized by KRS 189.337.".

Floor Amendment No. 1 to the Committee Substitute to **HB 100**, by Representative Marzian:

HB 100, On page 4, after line 9, by inserting the following:

"***4. An elected official on behalf of a constituent who is a person named in that vital record;***"; and

On page 4, line 10, by deleting "*4.*" and inserting "*5.*" in lieu thereof; and

On page 4, line 12, by deleting "*5.*" and inserting "*6.*" in lieu thereof; and

On page 4, line 14, by deleting "*6.*" and inserting "*7.*" in lieu thereof; and

On page 4, line 22, after "*estate*" by inserting "***, a named beneficiary of an insurance policy of the decedent,***"; and

On page 6, line 21, after the comma by deleting "*and the*" and inserting "***. The***" in lieu thereof.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and a Resolution:

HB 107, Representatives Wayne and Feeley

HB 108, Representatives Harmon, S. Lee, Coleman, Bratcher, Farmer, Ford, Napier, T. Thompson, and Gray

HB 258, Representative Palumbo

HB 400, Representatives Hall, Gray, Nesler, Sims, R. Adams, A. Arnold, J. Arnold, Gooch, Buckingham, Haydon, Edmonds, and Hoffman

HCR 17, Representative Nelson

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 4:00 p.m., Monday, February 2, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 4:00 p.m., Monday, February 2, 2004, was adopted by voice vote.

MONDAY, FEBRUARY 2, 2004

NINETEENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Alan Sorem, South Frankfort Presbyterian Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Bather, Haydon, Lindsay, Marzian, Nunn, and Reinhardt.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of January 30, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 422, by Representative Vincent : AN ACT relating to government records.

HB 423, by Representative Callahan: AN ACT relating to the vehicle emission testing program.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 418, SB 64**

Education: **HB 417, SB 63**

Health and Welfare: **SB 16, 17, 40**

Judiciary: **SB 14**

Licensing & Occupations: **HB 415, 420, SB 47, 79**

Local Government: **HB 413, 421**

Seniors, Military Affairs, and Public Safety: **SB 55**

State Government: **HB 416**

Transportation: **HB 414, 419**

House Floor: **HR 108, 109**

Report of Committees

The Committee on Committees has met and reported the following change:

APPOINT:

Representative J. Lee, ex officio member to Medicaid Managed Oversight Advisory Committee

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Licensing and Operations: **HB 362, 381**

Health and Welfare: **HB 158, 251, 376**

Education: **HB 176, 178**

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order. Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 74, 100, 305, 306, 322, 326, 350, 361, HCR 78, HB 341, 8,** and **11** have been posted for passage in the Regular Orders of the Day for February 3, 2004.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 209, 211**

Orders of the Day

HB 22, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved the adoption of Floor Amendment No. 1 to **HB 22**. Agreed.

Representative Yonts moved that **HB 22**, as amended, be passed.

On the roll call the vote was: **Yeas 79, Nays 11**. (See February 2, 2004, roll call on **HB 22** - Appendix.)

HB 22, as amended, was passed and the title agreed to.

Representative Yonts moved that the vote by which **HB 22**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 195 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Miller moved that **HB 195** be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See February 2, 2004, roll call on **HB 195** - Appendix.)

HB 195 was passed and the title agreed to.

Representative Miller moved that the vote by which **HB 195** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 319 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Thompson moved that **HB 319** be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See February 2, 2004, roll call on **HB 319** - Appendix.)

HB 319 was passed and the title agreed to.

Representative T. Thompson moved that the vote by which **HB 319** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Hoover moved that the rules be suspended to introduce and to act on a resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 111, by Representatives Hoover and Richards: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Louie B. Nunn.

Motions, Petitions, and Communications (Continued)

Representative Hoover moved the adoption of the following **HR 111**:

HR 111, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Louie B. Nunn.

With deepest respect and admiration, we pay homage and tribute to our friend, mentor, and colleague, Louie B. Nunn, and we pause in silent reverence for his soul.

WHEREAS, Louie B. Nunn was born on March 8, 1924, a native of Barren County, Kentucky, and he traversed these earthly bounds on January 29, 2004; and

WHEREAS, Louie B. Nunn was the loving son of the late Waller Harrison and Mary Roberts Nunn; he was the husband of the late Beula Cornelius Aspley Nunn, and he also was preceded in passing by a loving stepdaughter, Margaret Susan Crieger; he was the loving father of a son, Representative Steven R. Nunn, and a daughter, Jennie Lou Penn; and he was the proud grandfather of Robert Nunn, Courtney Nunn, and Mary Elizabeth Nunn; and Margaret Penn, Paige Penn, and Rachel Penn; and he also leaves behind two loving stepsons, Joe Aspley and Donald B. Aspley; and

WHEREAS, Louie B. Nunn graduated from Hiseville High School; he attended Bowling Green Business University, the University of Cincinnati, and received his law degree in 1950 from the University of Louisville; and

WHEREAS, Louie B. Nunn served his country with pride and distinction in the United States Army from 1943 to 1945 during World War II; and

WHEREAS, Louie B. Nunn was an integral part of the Barren County community, where he established a successful law practice in Glasgow; he was a devout member and chairman of the board of elders and deacons at First Christian Church; he was commander of the Barren County American Legion Post, vice president of the Glasgow Chamber of Commerce, and president of the Glasgow-Barren County Bar Association; and during the 1950s, he was named one of three outstanding young men of Kentucky by the Kentucky Junior Chamber of Commerce, and he was chosen as Glasgow's outstanding young man; and

WHEREAS, as a young man, Louie B. Nunn became a member of the Republican Party, and he cultivated a passion for Kentucky politics; he was elected to the position of Glasgow city attorney; in 1953, at the age of 29, he was elected Barren County Judge, which made him the youngest Kentuckian to serve as county judge, and the first Republican to hold that post in Barren County; and during his tenure as county judge, he was instrumental in organizing a county welfare board to make possible the financing and administration of various Barren County welfare programs, and he founded Santa Claus Unincorporated, a club to collect toys, money, and clothing for needy children; and

WHEREAS, Louie B. Nunn managed the successful campaigns of United States Senators John Sherman Cooper and Thurston Morton, and he handled statewide campaigns for Presidents Dwight D. Eisenhower and Richard Nixon; and during his term as Governor, he led the state GOP delegation to the 1968 Republican Convention, where he served as chairman of the Republican governors, and a major spokesman for the party; and he later acted as a regional coordinator in Ronald Reagan's 1976 presidential bid; and

WHEREAS, Louie B. Nunn was inaugurated Governor of Kentucky in December 1967; his term began with the realization that a tax increase was imminent in order for Kentucky to have a balanced budget and continue funding vital programs, such as education, mental health, and welfare; the 1968 General Assembly passed his executive budget, and at his request two years later, the legislature eliminated the sales tax from prescription drugs; and although the Republican Party was not in the majority of either house during his term of office, Louie B. Nunn maintained a successful working relationship with the General Assembly; and

WHEREAS, during his term as Governor, Louie B. Nunn was an outspoken advocate for the mentally ill, and his son, Representative Steven R. Nunn, continues this advocacy; he provided for improved juvenile delinquent facilities; he supported Kentucky Educational Television; funding for the University of Louisville, which was granted entry into the state system; and money to start Northern Kentucky University; and he was an advocate of the preservation of the Red River Gorge in Powell County; while serving as Governor, the state acquired Lilley Cornett Woods, a tract of virgin forest in Letcher County; and after his term of office, he was appointed a member of the board of regents at Morehead State University and Kentucky State University, where he worked to help the institutions with their difficulties; and

WHEREAS, when we remember Louie B. Nunn, we are reminded that he was a public servant, in the truest sense of the word; and he was considered a political giant within the Republican Party; he demonstrated an unwavering dedication to the citizens of this Commonwealth, and he served as an inspiration to his fellow peers through his endless efforts and tireless commitment to the causes and beliefs he steadfastly supported; and

WHEREAS, Louie B. Nunn displayed enthusiasm and optimism throughout his life; he contributed much to the American political system, and his influence will continue through all the lives he touched; he demonstrated his great leadership abilities as Governor of Kentucky; he was an outstanding Governor, a great politician, and he joins Abraham Lincoln and Henry Clay as Kentucky's foremost statesmen; and

WHEREAS, a celebration of life was held for Governor Louie B. Nunn on February 2, 2004 in the State Capitol rotunda, where his body lay in state; and his funeral service will be held on February 3, 2004 at the First Christian Church of Glasgow, with burial in the Cosby Cemetery; and

WHEREAS, the passing of Louie B. Nunn has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its utter sense of bereavement and loss upon the passing of our friend, mentor, and colleague, Louie B. Nunn, and extends to his family and many friends its most profound and deepest sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of our native son, Louie B. Nunn.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Honorable Steven R. Nunn, 136 Fairway Place, Glasgow, Kentucky 42141.

There being no objection, **HR 111** was adopted.

On the roll call for co-sponsors the vote was: **Yeas 93**. (See February 2, 2004, roll call to show co-sponsors on **HR 111**-Appendix.)

Representative Marcotte moved that the rules be suspended to introduce and to act on a resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 110, by Representatives Marcotte and Burch: A RESOLUTION recognizing the third Saturday in May as Friedreich's Ataxia Awareness day.

Motions, Petitions, and Communications (Continued)

Representative Marcotte moved the adoption of the following **HR 110**:

HR 110, A RESOLUTION recognizing the third Saturday in May as Friedreich's Ataxia Awareness Day.

WHEREAS, Friedreich's Ataxia is an inherited disease that causes progressive damage to the nervous system resulting in symptoms ranging from muscle weakness and speech problems to heart disease; and

WHEREAS, symptoms usually begin between the ages of 5 and 15 years, but can appear as early as 18 months or as late as 30 years of age; and

WHEREAS, there is currently no effective cure or treatment for Friedreich's Ataxia; and

WHEREAS, within 15 to 20 years after the appearance of the first symptoms, the person is generally confined to a wheelchair, and in the later stages of the disease the person is usually completely incapacitated; and

WHEREAS, Friedreich's Ataxia is the most frequently inherited ataxia; and

WHEREAS, according to the Proceedings of the National Academy of Sciences of the United States of America, Friedreich's Ataxia has a prevalence rate of 1 to 50,000 people; and

WHEREAS, raising awareness of Friedreich's Ataxia will lead to more research and understanding of this disease;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body recognizes the third Saturday in May as Friedreich's Ataxia Awareness Day.

There being no objection, **HR 110** was adopted.

Representative Palumbo moved the adoption of the following **Legislative Citation No. 18**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Thelma Lee Young July 2, 1917 - January 30, 2004 and respectfully joins with Representative Ruth Ann Palumbo in expressing deepest sympathy to the Young Family and all those who share in the loss of this distinguished citizen. The daughter of the late Risbon Benton and Pearl May Carrier Young, she was preceded in death by siblings, Mildred Dee, Mary Ann, Foster Taylor, Omar Clay and Lucille; nephew, Samuel Foster; and niece, Ann Howard. She is survived by her cherished sister, Florence; beloved nieces and nephews, James Ben, Lee Ann, Lydia, Janice, John Benton, Eddie Ray, Pattie, Risbon Brown and Terri; and, a host of other family members and loved ones. A graduate of Athens High School, retired clerk from A&P Grocery in Lexington, Kentucky, and an admired resident of Sayre Christian Village, Ms. Young was also a dedicated member of the Broadway Christian Church, where she participated as a member of Faith Circle and the Sunday School Class, and a member of the United Food and Commercial Workers Local #227. Thelma Lee Young is remembered on this day for the many and generous contributions she made to her family, friends and community and will be deeply missed by all those whose lives were touched by her remarkable presence. Done in Frankfort, Kentucky, this second day of February, in the year two thousand and four.

Legislative Citation No. 18 was adopted without objection.

Representative Kerr moved that **HB 284** be withdrawn. Agreed.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 424, by Representative Yonts: AN ACT relating to methamphetamine.

HB 425, by Representative Rasche: AN ACT relating to the selection of school personnel.

HB 426, by Representative A. Arnold: AN ACT relating to charitable gaming.

HB 427, by Representative A. Arnold: AN ACT relating to the taxing authority of emergency services boards.

HB 428, by Representative A. Arnold: AN ACT relating to federal candidates and declaring an emergency.

HB 429, by Representatives A. Arnold and Cherry: AN ACT relating to retirement.

HB 430, by Representatives Feeley and Pullin: AN ACT relating to reorganization.

HB 431, by Representative Kerr: AN ACT relating to driving under the influence for persons under the age of twenty-one.

HB 432, by Representative Sims: AN ACT relating to the establishment of the Commonwealth of Kentucky Abraham Lincoln Bicentennial Commission.

HB 433, by Representative Richards: AN ACT relating to economic development.

HCR 112, by Representative Weaver: A CONCURRENT RESOLUTION encouraging the Congress of the United States to enact legislation protecting our children by establishing an exclusive Internet domain extension of ".xxx", and requiring the posting and dissemination of obscene or pornographic materials to the designated domain.

HJR 113, by Representatives Cherry and Gray: A JOINT RESOLUTION directing the Department of Corrections, the Cabinet for Economic Development, the Finance and Administration Cabinet, and the Pennyrile Westpark Industrial Development Authority to facilitate the potential sale of the Pennyrile Westpark Industrial Park for the purpose of economic development within the Commonwealth.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and a Resolution have been posted for Committee consideration:

Health and Welfare: **HB 400**

Natural Resources: **HB 369, 370, HJR 98**

Motions, Petitions, and Communications (Continued)

Representative J. Adams moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative J. Adams moved that he be recorded as voting "yea" on **HB 50** and **108**. Agreed.

Representative Mobley moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Mobley moved that he be recorded as voting "yea" on **HB 108, 269, 189, 126,** and **273**. Agreed.

Representative Miller moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Miller moved that he be recorded as voting "yea" on **HB 283, 273, 269, 263, 258, 189, 108, 37, 126,** and **HCR 66**. Agreed.

Floor Amendments

Floor Amendment No. 1 to **HB 139**, by Representative Vincent:

HB 139, On page 4, line 15, after "*overpaid.*" by inserting "***If it is determined that an insurance company or agent paid a license fee or tax to a city, county, or urban-county government based upon premiums collected upon lives or risks which are discovered to be located outside the legal corporate limits of the city, county, or urban-county government which was paid the license fee or tax, the insurance company or agent shall be refunded those license fees and taxes within ninety (90) days of notice to the governmental entity paid.***".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills:

HB 108, Representative Embry

HB 227, Representative Bruce

HB 261, Representative Burch

HB 309, Representative Nesler

HB 319, Representative Buckingham

HB 341, Representative Upchurch

HB 350, Representative Riggs

HB 372, Representatives Thomas and Wilkey

Announcements

The following meetings were announced:

Committee on Local Government, Tuesday, February 3, 2004

Committee on State Government, Tuesday, February 3, 2004, Room 149

Committee on Labor and Industry, Tuesday, February 3, 2004, meeting canceled

Committee on Natural Resources, Tuesday, February 3, 2004, meeting canceled

Committee on Natural Resources, Thursday, February 5, 2004, Room 125, upon adjournment

Committee on Seniors, Military Affairs, and Public Safety, Tuesday, February 3, 2004, 9:00 a.m.

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 3:00 p.m., Tuesday, February 3, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 3:00 p.m., Tuesday, February 3, 2004, was adopted by voice vote.

TUESDAY, FEBRUARY 3, 2004

TWENTIETH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Dr. David Hinson, First Baptist Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Bather, Gooch, Hall, Marzian, and Nunn.

Daniel Wesley, Fleming County High School, sang the National Anthem.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 2, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 434, by Representative Rasche: AN ACT relating to retired teachers and declaring an emergency.

HB 435, by Representatives Cherry and Geveden: AN ACT relating to fire departments and making an appropriation therefor.

HB 436, by Representatives Cherry and Geveden: AN ACT relating to volunteer fire department aid.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 433**

Education: **HB 425**

Elections, Constitutional Amendments, and Intergovernmental Relations: **HB 428**

Judiciary: **HB 424, 431, HCR 112, HJR 113**

Licensing & Occupations: **HB 426**

Local Government: **HB 427**

Natural Resources and Environment: **HB 423**

State Government: **HB 422, 429, 430**

Tourism Development and Energy: **HB 432**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Agriculture and Small Business: **HB 404, SB 77**

Licensing and Occupations: **HB 420**

Report of Committees

The Committee on Seniors, Military Affairs, and Public Safety reported **HB 274**, with Committee Substitute attached thereto, and **HB 392**, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 274, AN ACT relating to the lottery.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Game" means the Kentucky veterans' benefit game;

(b) "Trust fund" means the Kentucky veterans' program trust fund created under KRS 40.460; and

(c) "Net revenue" means all proceeds received from the sale of game tickets, less prize payouts, reasonable administrative costs, and fees associated with the game as determined by the corporation.

(2) The corporation shall establish an instant lottery scratch-off game designated as the Kentucky veterans' benefit game. This game shall be available to the public starting January 3, 2005.

(3) All net revenues received from the sale of game tickets shall initially be deposited with the corporation. The corporation shall then transfer to the trust fund on a monthly basis fifty percent (50%) of all net revenues received from the sale of game tickets.

(4) Revenues transferred to the trust fund shall be used exclusively for veterans' programs administered by the Department of Veterans' Affairs.

(5) The corporation shall change the design or theme of the game regularly so that the game remains competitive with the other instant lottery scratch-off games offered by the corporation. Tickets for the game shall clearly state that fifty percent (50%) of net revenues from the game are being used for the benefit of veterans' programs in the Commonwealth of Kentucky.

(6) The corporation shall determine the price of the tickets, determine the payout, and make other administrative decisions regarding the game.

Section 2. KRS 154A.130 is amended to read as follows:

(1) All money received by the corporation from the sale of lottery tickets and all other sources shall be deposited into a corporate operating account. The corporation is authorized to use all money in the corporate operating account for the purposes of paying prizes and the necessary expenses of the corporation and dividends to the state. The corporation shall allocate the amount to be paid by the corporation to prize winners. The amount in the corporate operating account which the corporation anticipates will be available for the payment of prizes on an annuity basis may be invested in direct United States Treasury obligations. These instruments may be in varying maturities with respect to payment of annuities and may be in book-entry form. Monthly, no later than the last business day of the succeeding month, the corporation shall transfer to a lottery trust fund the amount of net revenues which the corporation determines are surplus to its needs. These funds shall be held in trust until 1990 at which time the General Assembly shall determine the manner in which the funds will be allocated and appropriated. The net revenues shall be determined by deducting from gross revenues the payment costs incurred in the operation and administration of the lottery, including the expenses of the corporation and the costs resulting from any contract or contracts entered into for promotional, advertising, or operational services or for the purchase or lease of lottery equipment and materials, fixed capital outlays, and the payment of prizes to the holders of winning tickets. After the start-up costs are paid, it is the intent of the Legislature that it shall be the goal of the corporation to transfer each year thirty-five percent (35%) of gross revenues to the general fund for the purposes stated above.

(2) A Kentucky lottery trust account is established in the State Treasury. Net lottery revenues shall be credited to this restricted account as provided in subsection (1) of this section. Moneys credited to the Kentucky lottery trust account shall be invested by the state in accordance with state investment practices and all earnings from the investments shall accrue to this account. No moneys shall be allotted or expended from this account unless pursuant to an appropriation by the General Assembly, except ***for funds transferred to the Kentucky veterans' program trust fund under Section 1 of this Act, and except*** that moneys as are needed shall be transferred to the general fund pursuant to the provisions of the Acts of the Extraordinary Session of the 1988 General Assembly. Moneys in the Kentucky lottery trust account shall not lapse at the close of the state fiscal year.

(3) Beginning in fiscal year 1999-2000, and each fiscal year thereafter, ***except as otherwise provided in Section 1 of this Act,*** three million dollars ($3,000,000) from net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:

(a) To the Collaborative Center for Literacy Development, one million two hundred thousand dollars ($1,200,000) in fiscal year 1999-2000 and each fiscal year thereafter; and

(b) To the early reading incentive fund, one million eight hundred thousand dollars ($1,800,000) in fiscal year 1999-2000 and each fiscal year thereafter.

(4) After the allocation of three million dollars ($3,000,000) to literacy development, as provided in subsection (3) of this section, ***and except as otherwise provided in Section 1 of this Act,*** net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:

(a) To the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund established in KRS 164.7877:

1. Seven million dollars ($7,000,000) in fiscal year 1999-2000;
2. Fifteen percent (15%) in fiscal year 2000-2001;
3. Twenty-five percent (25%) in fiscal year 2001-2002;
4. Thirty-two percent (32%) in fiscal year 2002-2003;
5. Forty percent (40%) in fiscal year 2003-2004; and
6. Forty-five percent (45%) in fiscal year 2004-2005 and each fiscal year thereafter; and

(b) To the College Access Program and the Kentucky Tuition Grants Program established in KRS Chapter 164:

1. Fourteen million dollars ($14,000,000) in fiscal year 1998-1999;
2. Fifteen million dollars ($15,000,000) in fiscal year 1999-2000;
3. Thirty-two percent (32%) in fiscal year 2000-2001 through fiscal year 2002-2003;
4. Forty percent (40%) in fiscal year 2003-2004;
5. Forty-five percent (45%) in fiscal year 2004-2005; and
6. Fifty-five percent (55%) of net lottery revenues in fiscal year 2005-2006 and each fiscal year thereafter.

(5) The Auditor of Public Accounts shall be responsible for a financial postaudit of the books and records of the corporation. The postaudit shall be conducted in accordance with generally accepted accounting principles, shall be paid for by the corporation, and shall be completed within ninety (90) days of the close of the corporation's fiscal year. The Auditor of Public Accounts shall contract with an independent, certified public accountant who meets the qualifications existing to do business within the Commonwealth of Kentucky to perform the corporation postaudit. The Auditor of Public Accounts shall remain responsible for the annual postaudit and the corporation shall pay all audit costs. The Auditor of Public Accounts may at any time conduct additional audits, including performance audits, of the corporation as he deems necessary or desirable. Contracts shall be entered into for audit services for a period not to exceed five (5) years and the same firm shall not receive two (2) consecutive audit contracts. All audits shall be filed with the Governor, the President of the Senate, and the Speaker of the House of Representatives. The corporation shall reimburse the Auditor of Public Accounts for the reasonable costs of any audits performed by him. The corporation shall cooperate with the Auditor of Public Accounts by giving employees designated by any of them access to facilities of the corporation for the purpose of efficient compliance with their respective responsibilities. With respect to any reimbursement that the corporation is required to pay to any agency, the corporation shall enter into an agreement with that agency under which the corporation shall pay to the agency an amount reasonably anticipated to cover the reimbursable expenses in advance of the expenses being incurred.

(6) By no later than December 31 of each year, in an advertisement at least one-fourth (1/4) of a page in size, the Kentucky Lottery Corporation shall publish the following information in every general-circulation daily newspaper published in Kentucky:

(a) The statements of revenue, expenses, and changes in retained earnings as shown in the most recent annual audit report. It shall be explained that the transfer of dividends is the amount of lottery earnings transferred to the general fund;

(b) A statement identifying the auditing firm;

(c) A telephone number which citizens may call to obtain a complete copy of the annual audit report; and

(d) The name of the president/chief executive officer of the Kentucky Lottery Corporation and a complete list of board members.

The Kentucky Lottery Corporation shall pay for the cost of the advertisement.

Section 3. KRS 154A.020 is amended to read as follows:

(1) There is hereby created and established a state lottery which shall be administered by an independent, de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a public body corporate and politic to be known as the Kentucky Lottery Corporation. The corporation shall be deemed a public agency within the meaning of KRS 61.805 and 61.870. This corporation shall be managed in such a manner that enables the people of the Commonwealth to benefit from its profits and to enjoy the best possible lottery games. The General Assembly hereby recognizes that the operations of a lottery are unique activities for state government and that a corporate structure will best enable the lottery to be managed in an entrepreneurial and business-like manner. ***Except as otherwise provided in Section 1 of this Act,*** it is the intent of the General Assembly that government programs and services shall not be mentioned in advertising or promoting a lottery. It is also the intent of the General Assembly that the Kentucky Lottery Corporation shall be accountable to the Governor, the General Assembly and the people of the Commonwealth through a system of audits, reports and thorough financial disclosure as required by this chapter.

(2) The existence of the corporation shall begin only upon confirmation of the members of the board by the Senate as provided in KRS 154A.030. Until the time of such confirmation, no business shall be conducted on behalf of the lottery.

(3) Notwithstanding any other provision of law to the contrary, no official action of any form shall be taken by the board at any time unless a majority of the members of the board shall have been confirmed by the Senate as provided in KRS 154A.030. Any action taken on behalf of the lottery when less than a majority of the members of the board shall have been confirmed shall be of no effect.

The Committee Substitute to **HB 274** is as follows:

HB 274, AN ACT relating to the lottery.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 154A IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Game" means the Kentucky veterans' benefit game;

(b) "Trust fund" means the Kentucky veterans' program trust fund created under KRS 40.460; and

(c) "Net revenue" means all proceeds received from the sale of game tickets, less prize payouts, reasonable administrative costs, and fees associated with the game as determined by the corporation.

(2) The corporation shall establish an instant lottery scratch-off game designated as the Kentucky veterans' benefit game. This game shall be available to the public starting January 3, 2005.

(3) All net revenues received from the sale of game tickets shall initially be deposited with the corporation. The corporation shall then transfer to the trust fund on a monthly basis fifty percent (50%) of all net revenues received from the sale of game tickets.

(4) Revenues transferred to the trust fund shall be used exclusively for veterans' programs administered by the Department of Veterans' Affairs.

(5) The corporation shall change the design or theme of the game regularly so that the game remains competitive with the other instant lottery scratch-off games offered by the corporation. Tickets and advertising for the game shall clearly state that fifty percent (50%) of net revenues from the game are being used for the benefit of veterans' programs in the Commonwealth of Kentucky.

(6) The corporation shall determine the price of the tickets, determine the payout, and make other administrative decisions regarding the game.

Section 2. KRS 154A.130 is amended to read as follows:

(1) All money received by the corporation from the sale of lottery tickets and all other sources shall be deposited into a corporate operating account. The corporation is authorized to use all money in the corporate operating account for the purposes of paying prizes and the necessary expenses of the corporation and dividends to the state. The corporation shall allocate the amount to be paid by the corporation to prize winners. The amount in the corporate operating account which the corporation anticipates will be available for the payment of prizes on an annuity basis may be invested in direct United States Treasury obligations. These instruments may be in varying maturities with respect to payment of annuities and may be in book-entry form. Monthly, no later than the last business day of the succeeding month, the corporation shall transfer to a lottery trust fund the amount of net revenues which the corporation determines are surplus to its needs. These funds shall be held in trust until 1990 at which time the General Assembly shall determine the manner in which the funds will be allocated and appropriated. The net revenues shall be determined by deducting from gross revenues the payment costs incurred in the operation and administration of the lottery, including the expenses of the corporation and the costs resulting from any contract or contracts entered into for promotional, advertising, or operational services or for the purchase or lease of lottery equipment and materials, fixed capital outlays, and the payment of prizes to the holders of winning tickets. After the start-up costs are paid, it is the intent of the Legislature that it shall be the goal of the corporation to transfer each year thirty-five percent (35%) of gross revenues to the general fund for the purposes stated above.

(2) A Kentucky lottery trust account is established in the State Treasury. Net lottery revenues shall be credited to this restricted account as provided in subsection (1) of this section. Moneys credited to the Kentucky lottery trust account shall be invested by the state in accordance with state investment practices and all earnings from the investments shall accrue to this account. No moneys shall be allotted or expended from this account unless pursuant to an appropriation by the General Assembly, except ***for funds transferred to the Kentucky veterans' program trust fund under Section 1 of this Act, and except*** that moneys as are needed shall be transferred to the general fund pursuant to the provisions of the Acts of the Extraordinary Session of the 1988 General Assembly. Moneys in the Kentucky lottery trust account shall not lapse at the close of the state fiscal year.

(3) Beginning in fiscal year 1999-2000, and each fiscal year thereafter, ***except as otherwise provided in Section 1 of this Act,*** three million dollars ($3,000,000) from net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:

(a) To the Collaborative Center for Literacy Development, one million two hundred thousand dollars ($1,200,000) in fiscal year 1999-2000 and each fiscal year thereafter; and

(b) To the early reading incentive fund, one million eight hundred thousand dollars ($1,800,000) in fiscal year 1999-2000 and each fiscal year thereafter.

(4) After the allocation of three million dollars ($3,000,000) to literacy development, as provided in subsection (3) of this section, ***and except as otherwise provided in Section 1 of this Act,*** net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:

(a) To the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund established in KRS 164.7877:

1. Seven million dollars ($7,000,000) in fiscal year 1999-2000;
2. Fifteen percent (15%) in fiscal year 2000-2001;
3. Twenty-five percent (25%) in fiscal year 2001-2002;
4. Thirty-two percent (32%) in fiscal year 2002-2003;
5. Forty percent (40%) in fiscal year 2003-2004; and
6. Forty-five percent (45%) in fiscal year 2004-2005 and each fiscal year thereafter; and

(b) To the College Access Program and the Kentucky Tuition Grants Program established in KRS Chapter 164:

1. Fourteen million dollars ($14,000,000) in fiscal year 1998-1999;
2. Fifteen million dollars ($15,000,000) in fiscal year 1999-2000;
3. Thirty-two percent (32%) in fiscal year 2000-2001 through fiscal year 2002-2003;
4. Forty percent (40%) in fiscal year 2003-2004;
5. Forty-five percent (45%) in fiscal year 2004-2005; and
6. Fifty-five percent (55%) of net lottery revenues in fiscal year 2005-2006 and each fiscal year thereafter.

(5) The Auditor of Public Accounts shall be responsible for a financial postaudit of the books and records of the corporation. The postaudit shall be conducted in accordance with generally accepted accounting principles, shall be paid for by the corporation, and shall be completed within ninety (90) days of the close of the corporation's fiscal year. The Auditor of Public Accounts shall contract with an independent, certified public accountant who meets the qualifications existing to do business within the Commonwealth of Kentucky to perform the corporation postaudit. The Auditor of Public Accounts shall remain responsible for the annual postaudit and the corporation shall pay all audit costs. The Auditor of Public Accounts may at any time conduct additional audits, including performance audits, of the corporation as he deems necessary or desirable. Contracts shall be entered into for audit services for a period not to exceed five (5) years and the same firm shall not receive two (2) consecutive audit contracts. All audits shall be filed with the Governor, the President of the Senate, and the Speaker of the House of Representatives. The corporation shall reimburse the Auditor of Public Accounts for the reasonable costs of any audits performed by him. The corporation shall cooperate with the Auditor of Public Accounts by giving employees designated by any of them access to facilities of the corporation for the purpose of efficient compliance with their respective responsibilities. With respect to any reimbursement that the corporation is required to pay to any agency, the corporation shall enter into an agreement with that agency under which the corporation shall pay to the agency an amount reasonably anticipated to cover the reimbursable expenses in advance of the expenses being incurred.

(6) By no later than December 31 of each year, in an advertisement at least one-fourth (1/4) of a page in size, the Kentucky Lottery Corporation shall publish the following information in every general-circulation daily newspaper published in Kentucky:

(a) The statements of revenue, expenses, and changes in retained earnings as shown in the most recent annual audit report. It shall be explained that the transfer of dividends is the amount of lottery earnings transferred to the general fund;

(b) A statement identifying the auditing firm;

(c) A telephone number which citizens may call to obtain a complete copy of the annual audit report; and

(d) The name of the president/chief executive officer of the Kentucky Lottery Corporation and a complete list of board members.

The Kentucky Lottery Corporation shall pay for the cost of the advertisement.

Section 3. KRS 154A.020 is amended to read as follows:

(1) There is hereby created and established a state lottery which shall be administered by an independent, de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a public body corporate and politic to be known as the Kentucky Lottery Corporation. The corporation shall be deemed a public agency within the meaning of KRS 61.805 and 61.870. This corporation shall be managed in such a manner that enables the people of the Commonwealth to benefit from its profits and to enjoy the best possible lottery games. The General Assembly hereby

recognizes that the operations of a lottery are unique activities for state government and that a corporate structure will best enable the lottery to be managed in an entrepreneurial and business-like manner. ***Except as otherwise provided in Section 1 of this Act,*** it is the intent of the General Assembly that government programs and services shall not be mentioned in advertising or promoting a lottery. It is also the intent of the General Assembly that the Kentucky Lottery Corporation shall be accountable to the Governor, the General Assembly and the people of the Commonwealth through a system of audits, reports and thorough financial disclosure as required by this chapter.

(2) The existence of the corporation shall begin only upon confirmation of the members of the board by the Senate as provided in KRS 154A.030. Until the time of such confirmation, no business shall be conducted on behalf of the lottery.

(3) Notwithstanding any other provision of law to the contrary, no official action of any form shall be taken by the board at any time unless a majority of the members of the board shall have been confirmed by the Senate as provided in KRS 154A.030. Any action taken on behalf of the lottery when less than a majority of the members of the board shall have been confirmed shall be of no effect.

HB 392, AN ACT relating to the Capital City Airport.

WHEREAS, General John Russell Groves, 57, died in a sport aviation accident in Bardstown, Kentucky; and he was the son of the late John Russell Groves and Lida Garred Groves of Lexington; and

WHEREAS, as a traditional citizen-soldier, Major General Groves set the standard for balancing family involvement, community service, and professional civilian career with military service to his state and nation; and

WHEREAS, General Groves was initially appointed as the Adjutant General of the Commonwealth of Kentucky by Governor Paul E. Patton on December 12, 1995, and he was reappointed again on December 9, 1999; as adjutant general, he served as the principal military advisor to the Governor and as commanding general for the 7,500 soldiers and airmen of Kentucky's Army and Air National Guard, as well as overseeing operation of the state Divisions of Emergency Management and Air Transport; he was a registered architect, licensed attorney, and holder of a Ph.D. in education, and served as the state's adjutant general while on a leave of absence from the University of Kentucky where he was the Assistant Dean of the College of Architecture; and he returned to a teaching position at the UK School of Architecture in August 2001; and

WHEREAS, with more than 36 years of military service ranging from infantry officer to combat engineer, General Groves was commissioned through officer candidate school in 1968, following four years of service as an enlisted soldier; and ultimately he would command units at the company, battalion, regiment, and brigade level prior to his selection as commanding general of the Kentucky Guard; and

WHEREAS, General Groves' leadership of the Kentucky National Guard and the Department of Military Affairs led to the increased development of Bluegrass Station, an emphasis on armory improvement and replacement, and the expansion of the Wendell H. Ford Regional Training Center in Greenville, making the Kentucky National Guard an integral partner with Fort Campbell and Fort Knox in "Fort Kentucky"; his efforts also saw the establishment of the Kentucky Youth Challenge Program and the success of the National Guard Tuition Assistance Program; he helped put Kentucky on the international map with his establishment of the Kentucky-Ecuador State Partnership Program, while also overseeing Guard participation in humanitarian construction projects during Operation "New Horizons" in the South American nation, and personally directing the largest emergency activation of national Guard soldiers and airman in Commonwealth history in response to the devastating floods of 1997; and MG Groves additionally oversaw development of Kentucky's Weapons of Mass Destruction Civil Support Team, forecasting the Kentucky National Guard's critical role in homeland security; and

WHEREAS, in 1995, he was appointed as one of the first National Guard officers to serve as adjunct faculty at the United States Army War College Strategic Studies Institute in Carlisle, PA, and was subsequently selected in 1997, by the Secretary of Defense, for membership on the Reserve Forces Policy Board; in April of 2002, he was named by the Chief of Staff of the Army as a member of the War College's Board of Visitors, where he was currently serving as Chair of the Academic Affairs and Outreach Committee; and, in addition to his teaching duties at the University of Kentucky and private practice as an architect, he also served as both Commissioner (1980-81) and Deputy Commissioner (1978-79) of the Kentucky Department of Housing Buildings and Construction; and

WHEREAS, he was an accomplished private pilot, sailor, sport parachutist, and outdoor enthusiast who was well known for organizing family running, backpacking, mountain climbing, and mountain biking expeditions; as well, he was the author of numerous articles published in professional architectural and military journals, while also actively engaging in community service to include appointments to the boards of the Blue Grass Council of the Boy Scouts of America, Kentucky Partners Chapter of the Partners of the Americas, Lexington Fayette County Airport Board, Kentucky Heritage Council, University of Kentucky Alumni Association, and Kentucky Historic Properties Commission; and he served as both Vestry Member and Senior Warden at Church of the Good Shepherd Episcopal; and

WHEREAS, a graduate of the University of Kentucky College of Architecture and Law School, General Groves was also an Eagle Scout and member of the Graduate Hall of Distinction at Lexington's Bryan Station Senior High School, in addition to being selected for induction in the Army's Officer Candidate School Hall of Fame at Ft. Benning, Georgia; and his military awards include the Meritorious Service Medal with two Oak Leaf Clusters, Army Commendation Medal, and the Army Reserve Component Achievement Medal with Silver Oak Leaf Cluster, in addition to the Special Forces Tab and Air Assault and

Parachutist badges; and

WHEREAS, General Groves is survived by his wife, Barbara Meyer Groves; his sister, Lida Clark Groves; his son, Captain John Marshall Groves; his son and daughter-in-law, Captain Matthew Meyer Groves and Jennifer Givens Groves; and his daughter, Elise Elizabeth Groves;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 36.400 is amended to read as follows:

As used in KRS 36.400 to 36.425, unless the context otherwise requires:

(1) "Division of Air Transport" includes the ***General John Russell Groves*** Capital City Airport;

(2) "State aircraft" means aircraft owned by the Commonwealth, leased by the Commonwealth, or otherwise under the control of the Commonwealth and administratively assigned to the Division of Air Transport. It shall also include air charters by the division. However, this shall not include or apply to any and all aircraft assigned to, owned, leased, operated, or controlled by the Department of State Police, or otherwise under the control or direction of the Department of State Police. The operation, maintenance, scheduling, and care of Department of State Police aircraft shall not be included under or affected by KRS 36.400 to 36.425; and

(3) "Official business" means any activity involving travel in a state aircraft if the activity is reasonably required, expected, or appropriate, considering the nature of the using public official's job responsibilities. The activities shall include, but not be limited to, attendance by officials at nonpartisan ceremonial functions and events where their appearance is normally expected by virtue of their office or where official representation of the Commonwealth is otherwise appropriate, and to nonpolitical flights by the Governor and members of his immediate family when accompanying or representing him.

Section 2. KRS 36.405 is amended to read as follows:

(1) The Adjutant General of Kentucky, as executive head of the Department of Military Affairs, shall be responsible for overall policy development and supervision of the Division of Air Transport and ***General John Russell Groves*** Capital City Airport.

(2) A division director shall head the Division of Air Transport within the Department of Military Affairs.

(3) The division director shall be responsible for the management and administration of the Division of Air Transport and the ***General John Russell Groves*** Capital City Airport.

Section 3. KRS 36.410 is amended to read as follows:

(1) The functions of the Division of Air Transport shall be to:
    (a) Manage and operate the ***General John Russell Groves*** Capital City Airport;
    (b) Oversee the maintenance and care of all state aircraft;
    (c) Control the scheduling and operational use of state aircraft, including air charters; and
    (d) Collect from using agencies and officers the costs of operating state aircraft, including air charters.

(2) Subject to the approval of the Adjutant General and in accordance with applicable state and federal statutes and regulations, the division shall promulgate administrative regulations under KRS Chapter 13A to:
    (a) Establish user fees to be paid by users of the services and facilities of the ***General John Russell Groves*** Capital City Airport for charges including, but not limited to, hangar fees, tie-down fees, fuel, and aircraft supplies; and
    (b) Establish fees for the usage of state aircraft.

Section 4. The Clerk of the House of Representatives shall transmit a copy of this Act to Mrs. Barbara Meyer Groves.

The Committee on Local Government reported **HB 203,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 203, AN ACT changing the classification of the City of Warsaw, in Gallatin County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Warsaw, in Gallatin County, is such as to justify its being classified as a city of the fourth class;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Warsaw, in Gallatin County, is transferred from the fifth to the fourth class of cities.

The Committee on Appropriations and Revenue reported **HB 157,** with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Reported to the Committee on Rules.

The Committee on Appropriations and Revenue reported **HB 162**, with Committee Substitute attached thereto, and **HB 163**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 162, AN ACT relating to debts owed to the Commonwealth.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Debt" means a sum certain which has been certified by an agency as due and owing;

(b) "Liquidated debt" means a legal debt for a sum certain which has been certified by an agency as final due and owing, all appeals and legal actions having been exhausted;

(c) "Agency" means an organizational unit or administrative body in the executive branch of state government, as defined in KRS 12.010; and

(d) "Cabinet" means the Revenue Cabinet.

(2) Each agency and the Administrative Office of the Courts shall develop, maintain, and update in a timely manner an ongoing inventory of each debt owed to it and shall make every reasonable effort to collect each debt. Within sixty (60) days after the identification of a debt, each agency shall begin administrative action to collect the debt.

(3) The Auditor of Public Accounts shall review each agency's debt identification and collection procedures as part of the annual audit of state agencies.

(4) Unless otherwise provided by statute, an agency shall not forgive any debt owed to it.

(5) For those agencies without statutory procedures for collecting debts, the Revenue Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to prescribe standards and procedures with which those agencies shall comply regarding collection of debts, notices to persons owing debt, information to be monitored concerning the debts, and an appeals process.

(6) Each agency and the Administrative Office of the Courts shall identify all liquidated debts and shall submit a list of those liquidated debts in the form and manner prescribed by the cabinet to the cabinet for review. The cabinet shall review the information submitted by the agencies and the Administrative Office of the Courts and shall, within ninety (90) days of receipt of the information, determine whether it would be cost-effective for the cabinet to further pursue collection of the liquidated debts.

(a) The cabinet may, after consultation with the agency or the Administrative Office of the Courts, return the liquidated debt to the agency submitting the liquidated debt if:

1. The request for review contains insufficient information; or

2. The debt is not feasible to collect.

Any return of a liquidated debt shall be in writing, and shall state why the debt is being returned.

(b) The cabinet shall identify in writing, to the submitting agency or the Administrative Office of the Courts, the liquidated debts it has determined that it can pursue in a cost-effective manner, and the agency or Administrative Office of the Courts shall officially refer the identified liquidated debts to the cabinet for collection.

(c) The agency and the Administrative Office of the Courts shall retain a complete record of all liquidated debts referred to the cabinet for collection until the debt is collected or forgiven.

(d) Each agency and the Administrative Office of the Courts shall make appropriate accounting of any uncollected debt as prescribed by law.

(7) (a) If the agency recovers the debt funds prior to referral to the Revenue Cabinet, the agency shall retain the collected funds in accordance with its statutory authority.

(b) After a liquidated debt is referred to the Revenue Cabinet, the liquidated debt shall be subject to interest and a twenty-five percent (25%) collection fee, unless the interest and collection fee are waived by the Revenue Cabinet. The collection fee and interest shall be in addition to any other costs accrued prior to the time of referral. The cabinet may deduct and retain from the liquidated debts recovered an amount equal to the lesser of the cost of collection fee or the actual expenses incurred in the collection of the debt. Any liquidated debts recovered by the Revenue Cabinet plus the collection fee and interest shall be deposited in the general fund, except for Medicaid benefits and funds required by law to be remitted to a federal agency.

(c) Nothing in Section 1 of this Act shall prohibit the Revenue Cabinet from entering into an agreement with an agency for collection of debts prior to liquidation. If an agency enters into an agreement with the cabinet, the agency shall retain collection funds according to the provisions of the agreement.

(8) Upon receipt of a referred liquidated debt and after its determination that the debt is feasible and cost-effective to collect, the Revenue Cabinet shall pursue collection of the referred debt in accordance with Section 3 of this Act.

(9) By administrative regulation promulgated under KRS Chapter 13A, the Revenue Cabinet shall prescribe the electronic format and form of, and the information required in, a referral.

(10) (a) The Revenue Cabinet shall report annually by October 1 to the Interim Joint Committee on Appropriations and Revenue on the collection of debts. The report shall include the total amount by agency and fund type of liquidated debt that has been referred to the cabinet; the amount of each referring agency's liquidated debt, by fund type, that has been collected by the cabinet; and the total amount of each referring agency's liquidated debt, by fund type, that the cabinet determined to be cost-ineffective to collect, including the reasons for the determinations.

(b) Each cabinet shall report annually by October 1 to the Interim Joint Committee on Appropriations and Revenue on:

1. The amount of previous fiscal year unliquidated debt by agency, fund type, and age, the latter to be categorized as less than one (1) year, less than five (5) years, less than ten (10) years, and over ten (10) years; and

2. The amount, by agency, of liquidated debt not referred to the Revenue Cabinet; a summary, by criteria listed in paragraph (a) of subsection (6) of Section 1 of this Act, of reasons the Revenue Cabinet provided for not requesting referral of those liquidated debts; and a summary of the actions each agency is taking to collect those liquidated debts.

(c) The Administrative Office of the Courts shall report annually by October 1 to the Interim Joint Committee on Appropriations and Revenue the amount of previous fiscal year unliquidated debt by county and whether in the Circuit Court or District Court; and fund type and age, the latter categorized as less than one (1) year, less than five (5) years, less than ten (10) years, and over ten (10) years.

(d) The Finance and Administration Cabinet shall report annually by October 1 to the Interim Joint Committee on Appropriations and Revenue on the amount of the General Government Cabinet's unliquidated debt by agency, fund type, and age, the latter categorized as less than one (1) year, less than five (5) years, less than ten (10) years, and over ten (10) years.

(11) At the time of submission of a liquidated debt to the Revenue Cabinet for review, the referring agency or the Administrative Office of the Courts shall provide information about the debt to the State Treasurer for the Treasurer's action under subsection (1) of Section 2 of this Act.

Section 2. KRS 44.030 is amended to read as follows:

(1) No money shall be paid to any person on a claim against the state in his own right, or as an assignee of another, when he or his assignor is indebted to the state. The claim, to the extent it is allowed, shall be credited to the account of the person so indebted, and if there is any balance due him after settling the whole demand of the state *that*[~~such~~] balance shall be paid to him.

(2) The Finance and Administration Cabinet shall provide the Cabinet for Families and Children with a quarterly report of all tort claims made against the state by individuals that the Cabinet for Families and Children shall compare with the child support database to match individuals who have a child support arrearage and may receive a settlement from the state.

(3) Each organizational unit and administrative body in the executive branch of state government, as defined in KRS 12.010, and the Administrative Office of the Courts in the judicial branch of state government shall provide information to the State Treasurer concerning any debt it has referred to the Revenue Cabinet for collection under Section 1 of this Act.

Section 3. KRS 131.030 is amended to read as follows:

(1) The Revenue Cabinet shall exercise all administrative functions of the state in relation to the state revenue and tax laws, the licensing and registering of motor vehicles, the equalization of tax assessments, the assessment of public utilities and public service corporations for taxes, the assessment of franchises, the supervision of tax collections, and the enforcement of revenue and tax laws, either directly or through supervision of tax administration activity in other departments to which the Revenue Cabinet may commit administration of certain taxes.

(2) The Revenue Cabinet shall have all the powers and duties with reference to assessment or equalization of the assessment of property heretofore exercised or performed by any state board or commission.

(3) The Revenue Cabinet shall have all the powers and duties necessary to consider and settle tax cases under KRS 131.110 and refund claims made under KRS 134.580. The Revenue Cabinet is encouraged to settle controversies on a fair and equitable basis and shall be authorized to settle tax controversies based on the hazards of litigation applicable to them.

(4) The Revenue Cabinet shall have all the powers and duties necessary to collect any debts owed to the Commonwealth that are referred to the cabinet by an organizational unit or administrative body in the executive branch of state government, as defined in KRS 12.010, and by the Administrative Office of the Courts in the judicial branch of state government under Section 1 of this Act.

Section 4. KRS 131.565 is amended to read as follows:

(1) *For purposes of this section, "state agency" or "state agencies" shall include the Administrative Office of the Courts.*

(2) No state agency shall request the withholding of any individual income tax refund unless there is specific[~~ statutory~~] provision *in statute or administrative regulation* for debtor appeal and hearing rights for that particular debt.

(3)[~~(2)~~] State agencies ***having the statutory and regulatory provisions described in subsection (2) of this section shall***[~~desiring to~~] establish claims against Kentucky individual income tax refunds ***by notifying***[~~shall notify~~] the secretary of revenue in writing[~~ of such intention~~] by a date established by the Revenue Cabinet and, by ***dates agreed to by the Revenue Cabinet and each state agency***[~~the following December 31~~], shall furnish a list of all liquidated debts due the agency for which withholding is ***required***[~~requested~~] for individual income tax refunds due to be paid ***to the debtor of the claimant agency***[~~during the next calendar year~~]. ***This***[~~Such~~] list shall be submitted in such form and contain such information as may be required by the secretary of revenue to facilitate identification of the refunds to be withheld. As used in this section the term "liquidated debt" means a legal debt for a sum certain, which has been certified by the claimant agency as final due and owing. The claimant agency must have made reasonable efforts to collect such debt, and must have provided the debtor the opportunity for appeal and formal hearing as provided by statute. The claimant agency ***shall***[~~must~~] send thirty (30) days*'* prior written notification to the debtor of the intention to submit the claim to the Revenue Cabinet for setoff as provided in KRS 131.570.

(4)[~~(3)~~] The individual income tax refund withholding procedures provided in KRS 131.560 to 131.595 shall be in lieu of the procedures set forth in KRS 427.130 and 44.030 only with regard to sums due to a debtor from the Revenue Cabinet.

(5)[~~(4)~~] No state agency shall request the withholding of any individual income tax refund unless the debt for which withholding is requested is in a liquidated amount.

(6)[~~(5)~~] Each state agency requesting the withholding of any individual income tax refund shall indemnify the Revenue Cabinet against any and all damages, court costs, attorneys fees and any other expenses related to litigation which arises concerning the administration of KRS 131.560 to 131.595 as it pertains to a refund withholding action requested by such agency.

(7)[~~(6)~~] Those state agencies requesting the withholding of individual income tax refunds shall, on a per unit cost or other equitable basis determined by the Revenue Cabinet, reimburse the Revenue Cabinet for all development, implementation and administration costs incurred but not otherwise funded under the provisions of KRS 131.560 to 131.595.

(8)[~~(7)~~] [~~During the development and implementation phase and the first full year of operation of the program, ~~]The Revenue Cabinet may ***decline the withholding of individual income tax refunds from agencies if the request would adversely impact the operation of the Revenue Cabinet***[~~limit agency participation in the program to ensure orderly implementation of the system~~].

Section 5. KRS 131.585 is amended to read as follows:

There is hereby created within the Revenue Cabinet a state debt offset account, which will be subject to the provisions of the restricted fund group, as provided in KRS 48.010(13)(f), and all funds collected under KRS 131.565*(6)*[~~(5)~~] shall be credited thereto with only the expenses of the Revenue Cabinet related to development, implementation and administration of KRS 131.560 to 131.595 to be paid therefrom. This account shall not lapse.

The Committee Substitute to **HB 162** is as follows:

HB 162, AN ACT relating to debts owed to the Commonwealth.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Debt" means a sum certain which has been certified by an agency as due and owing;

(b) "Liquidated debt" means a legal debt for a sum certain which has been certified by an agency as final due and owing, all appeals and legal actions having been exhausted;

(c) "Agency" means an organizational unit or administrative body in the executive branch of state government, as defined in KRS 12.010;

(d) "Cabinet" means the Revenue Cabinet; and

(e) "Court of Justice" means the Administrative Office of the Courts, all courts, and all clerks of the courts.

(2) Each agency and the Court of Justice shall develop, maintain, and update in a timely manner an ongoing inventory of each debt owed to it and shall make every reasonable effort to collect each debt. Within sixty (60) days after the identification of a debt, each agency shall begin administrative action to collect the debt.

(3) The Auditor of Public Accounts shall review each agency's debt identification and collection procedures as part of the annual audit of state agencies.

(4) Unless otherwise provided by statute, an agency shall not forgive any debt owed to it.

(5) For those agencies without statutory procedures for collecting debts, the Revenue Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to prescribe standards and procedures with which

those agencies shall comply regarding collection of debts, notices to persons owing debt, information to be monitored concerning the debts, and an appeals process.

(6) Each agency and the Court of Justice shall identify all liquidated debts and shall submit a list of those liquidated debts in the form and manner prescribed by the cabinet to the cabinet for review. The cabinet shall review the information submitted by the agencies and the Court of Justice and shall, within ninety (90) days of receipt of the information, determine whether it would be cost-effective for the cabinet to further pursue collection of the liquidated debts.

(a) The cabinet may, after consultation with the agency or the Court of Justice, return the liquidated debt to the entity submitting the liquidated debt if:

1. The request for review contains insufficient information; or

2. The debt is not feasible to collect.

Any return of a liquidated debt shall be in writing, and shall state why the debt is being returned.

(b) The cabinet shall identify in writing, to the submitting agency or the Court of Justice, the liquidated debts it has determined that it can pursue in a cost-effective manner, and the agency or Court of Justice shall officially refer the identified liquidated debts to the cabinet for collection.

(c) The agency and the Court of Justice shall retain a complete record of all liquidated debts referred to the cabinet for collection until the debt is collected or forgiven.

(d) Each agency and the Court of Justice shall make appropriate accounting of any uncollected debt as prescribed by law.

(7) (a) If the agency recovers the debt funds prior to referral to the Revenue Cabinet, the agency shall retain the collected funds in accordance with its statutory authority.

(b) Upon referral of a liquidated debt to the Revenue Cabinet, the liquidated debt shall accrue interest and a twenty-five percent (25%) collection fee shall attach unless the interest and collection fee are waived by the Revenue Cabinet. The collection fee and interest shall be in addition to any other costs accrued prior to the time of referral. The cabinet may deduct and retain from the liquidated debt recovered an amount equal to the lesser of the collection fee or the actual expenses incurred in the collection of the debt. Any funds recovered by the Revenue Cabinet after the deduction of the cabinet's cost of collection expenses shall be deposited in the general fund, except for Medicaid benefits funds and funds required by law to be remitted to a federal agency, which shall be remitted as required by law.

(c) Nothing in this section shall prohibit the Revenue Cabinet from entering into a memorandum of agreement with an agency pursuant to subsection (11) of Section 5 of this Act, for collection of debts prior to liquidation. If an agency enters into an agreement with the cabinet, the agency shall retain funds collected according to the provisions of the agreement.

(d) This section shall not affect any agreement between the cabinet and an agency entered into under subsection (11) of Section 5 of this Act that is in effect on the effective date of this Act that provides for the collection of liquidated debts by the cabinet on behalf of the agency.

(e) This section shall not affect the collection of delinquent taxes by county attorneys under KRS 134.500.

(8) Upon receipt of a referred liquidated debt and after its determination that the debt is feasible and cost-effective to collect, the Revenue Cabinet shall pursue collection of the referred debt in accordance with Section 3 of this Act.

(9) By administrative regulation promulgated under KRS Chapter 13A, the Revenue Cabinet shall prescribe the electronic format and form of, and the information required in, a referral.

(10) (a) The Revenue Cabinet shall report annually by October 1 to the Interim Joint Committee on Appropriations and Revenue on the collection of debts. The report shall include the total amount by agency and fund type of liquidated debt that has been referred to the cabinet; the amount of each referring agency's liquidated debt, by fund type, that has been collected by the cabinet; and the total amount of each referring agency's liquidated debt, by fund type, that the cabinet determined to be cost-ineffective to collect, including the reasons for the determinations.

(b) Each cabinet shall report annually by October 1 to the Interim Joint Committee on Appropriations and Revenue on:

1. The amount of previous fiscal year unliquidated debt by agency, fund type, and age, the latter to be categorized as less than one (1) year, less than five (5) years, less than ten (10) years, and over ten (10) years; and

2. The amount, by agency, of liquidated debt not referred to the Revenue Cabinet; a summary, by criteria listed in paragraph (a) of subsection (6) of Section 1 of this Act, of reasons the Revenue Cabinet provided for not requesting referral of those liquidated debts; and a summary of the actions each agency is taking to collect those liquidated debts.

(c) The Court of Justice shall report annually by October 1 to the Interim Joint Committee on Appropriations and Revenue the amount of previous fiscal year unliquidated debt by county and whether in the Circuit Court or

District Court; and fund type and age, the latter categorized as less than one (1) year, less than five (5) years, less than ten (10) years, and over ten (10) years.

(d) The Finance and Administration Cabinet shall report annually by October 1 to the Interim Joint Committee on Appropriations and Revenue on the amount of the General Government Cabinet's unliquidated debt by agency, fund type, and age, the latter categorized as less than one (1) year, less than five (5) years, less than ten (10) years, and over ten (10) years.

(11) At the time of submission of a liquidated debt to the Revenue Cabinet for review, the referring agency or the Court of Justice shall provide information about the debt to the State Treasurer for the Treasurer's action under subsection (1) of Section 2 of this Act.

Section 2. KRS 44.030 is amended to read as follows:

(1) No money shall be paid to any person on a claim against the state in his own right, or as an assignee of another, when he or his assignor is indebted to the state. The claim, to the extent it is allowed, shall be credited to the account of the person so indebted, and if there is any balance due him after settling the whole demand of the state ***that***[~~such~~] balance shall be paid to him.

(2) The Finance and Administration Cabinet shall provide the Cabinet for Families and Children with a quarterly report of all tort claims made against the state by individuals that the Cabinet for Families and Children shall compare with the child support database to match individuals who have a child support arrearage and may receive a settlement from the state.

(3) Each organizational unit and administrative body in the executive branch of state government, as defined in KRS 12.010, and the Court of Justice in the judicial branch of state government shall provide information to the State Treasurer concerning any debt it has referred to the Revenue Cabinet for collection under Section 1 of this Act.

Section 3. KRS 131.030 is amended to read as follows:

(1) The Revenue Cabinet shall exercise all administrative functions of the state in relation to the state revenue and tax laws, the licensing and registering of motor vehicles, the equalization of tax assessments, the assessment of public utilities and public service corporations for taxes, the assessment of franchises, the supervision of tax collections, and the enforcement of revenue and tax laws, either directly or through supervision of tax administration activity in other departments to which the Revenue Cabinet may commit administration of certain taxes.

(2) The Revenue Cabinet shall have all the powers and duties with reference to assessment or equalization of the assessment of property heretofore exercised or performed by any state board or commission.

(3) The Revenue Cabinet shall have all the powers and duties necessary to consider and settle tax cases under KRS 131.110 and refund claims made under KRS 134.580. The Revenue Cabinet is encouraged to settle controversies on a fair and equitable basis and shall be authorized to settle tax controversies based on the hazards of litigation applicable to them.

(4) The Revenue Cabinet shall have all the powers and duties necessary to collect any debts owed to the Commonwealth that are referred to the cabinet by an organizational unit or administrative body in the executive branch of state government, as defined in KRS 12.010, and by the Court of Justice in the judicial branch of state government under Section 1 of this Act.

Section 4. KRS 131.565 is amended to read as follows:

(1) ***For purposes of this section, "state agency" or "state agencies" shall include the Court of Justice as defined in Section 1 of this Act.***

(2) No state agency shall request the withholding of any individual income tax refund unless there is specific[~~ statutory~~] provision ***in statute or administrative regulation*** for debtor appeal and hearing rights for that particular debt.

(3)[~~(2)~~] State agencies ***having the statutory and regulatory provisions described in subsection (2) of this section shall***[~~desiring to~~] establish claims against Kentucky individual income tax refunds ***by notifying***[~~shall notify~~] the secretary of revenue in writing[~~ of such intention~~] by a date established by the Revenue Cabinet and, by ***dates agreed to by the Revenue Cabinet and each state agency***[~~the following December 31~~], shall furnish a list of all liquidated debts due the agency for which withholding is ***required***[~~requested~~] for individual income tax refunds due to be paid ***to the debtor of the claimant agency***[~~during the next calendar year~~]. ***This***[~~Such~~] list shall be submitted in such form and contain such information as may be required by the secretary of revenue to facilitate identification of the refunds to be withheld. As used in this section the term "liquidated debt" means a legal debt for a sum certain, which has been certified by the claimant agency as final due and owing. The claimant agency must have made reasonable efforts to collect such debt, and must have provided the debtor the opportunity for appeal and formal hearing as provided by statute. The claimant agency ***shall***[~~must~~] send thirty (30) days***'*** prior written notification to the debtor of the intention to submit the claim to the Revenue Cabinet for setoff as provided in KRS 131.570.

(4)[~~(3)~~] The individual income tax refund withholding procedures provided in KRS 131.560 to 131.595 shall be in lieu of the procedures set forth in KRS 427.130 and 44.030 only with regard to sums due to a debtor from the Revenue Cabinet.

(5)[~~(4)~~] No state agency shall request the withholding of any individual income tax refund unless the debt for which withholding is requested is in a liquidated amount.

(6)[~~(5)~~] Each state agency requesting the withholding of any individual income tax refund shall indemnify the Revenue

Cabinet against any and all damages, court costs, attorneys fees and any other expenses related to litigation which arises concerning the administration of KRS 131.560 to 131.595 as it pertains to a refund withholding action requested by such agency.

(7)[~~(6)~~] Those state agencies requesting the withholding of individual income tax refunds shall, on a per unit cost or other equitable basis determined by the Revenue Cabinet, reimburse the Revenue Cabinet for all development, implementation and administration costs incurred but not otherwise funded under the provisions of KRS 131.560 to 131.595.

(8)[~~(7)~~] [~~During the development and implementation phase and the first full year of operation of the program,~~]The Revenue Cabinet may ***decline the withholding of individual income tax refunds from agencies if the request would adversely impact the operation of the Revenue Cabinet***[~~limit agency participation in the program to ensure orderly implementation of the system~~].

Section 5. KRS 131.130 is amended to read as follows:

Without limitation of other duties assigned to it by law, the following powers and duties are vested in the Revenue Cabinet:

(1) The cabinet may make administrative regulations, and direct proceedings and actions, for the administration and enforcement of all tax laws of this state.

(2) The cabinet, by representatives appointed by it in writing, may take testimony or depositions, and may examine the records, documents, files, and equipment of any taxpayer or of any person whose records, documents, or equipment will furnish knowledge concerning the tax liability of any taxpayer, when it deems this reasonably necessary for purposes incident to the performance of its functions. The cabinet may enforce this right by application to the Circuit Court in the county wherein the person is domiciled or has his principal office, or by application to the Franklin Circuit Court, which courts may compel compliance with the orders of the cabinet.

(3) The cabinet shall prescribe the style, and determine and enforce the use or manner of keeping, of all assessment and tax forms and records employed by state and county officials, and may prescribe forms necessary for the administration of any revenue law by the promulgation of an administrative regulation pursuant to KRS Chapter 13A incorporating the forms by reference.

(4) The cabinet shall advise on all questions respecting the construction of state revenue laws and the application thereof to various classes of taxpayers and property.

(5) Attorneys employed by the cabinet and approved by the Attorney General as provided in KRS 15.020 may prosecute all violations of the criminal and penal laws relating to revenue and taxation. If a Revenue Cabinet attorney undertakes any of the actions prescribed in this subsection, he shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including but not limited to the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.

(6) In the event of the incapacity of attorneys employed by the cabinet or at the request of the secretary of the Revenue Cabinet, the Attorney General or his designee shall prosecute all violations of the criminal and penal laws relating to revenue and taxation. If the Attorney General undertakes any of the actions prescribed in this subsection, he shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including but not limited to the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas, and processes of any kind, and to appear before all grand juries, courts, or tribunals.

(7) The cabinet may require the Commonwealth's attorneys and county attorneys to prosecute actions and proceedings and perform other services incident to the enforcement of laws assigned to the cabinet for administration.

(8) The cabinet may conduct research in the fields of taxation, finance, and local government administration, and publish its findings, as the secretary may deem wise.

(9) The cabinet may make administrative regulations necessary to establish a system of taxpayer identifying numbers for the purpose of securing proper identification of taxpayers subject to any tax laws or other revenue measure of this state, and may require such taxpayer to place on any return, report, statement, or other document required to be filed, any number assigned pursuant to such administrative regulations.

(10) The cabinet may, when it is in the best interest of the Commonwealth and helpful to the efficient and effective enforcement, administration, or collection of sales and use tax, motor fuels tax, or the petroleum environmental assurance fee, enter into agreements with out-of-state retailers or other persons for the collection and remittance of sales and use tax, the motor fuels tax, or the petroleum environmental assurance fee.

(11) The cabinet may enter into annual memoranda of agreement with any state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization to assume the collection duties for any[~~ liquidated~~] debts due the state entity and may renew that agreement for up to five (5) years. Under such an agreement, the cabinet shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of those liquidated debts as provided under:

(a) KRS Chapters 131, 134, and 135 for the collection, refund, and administration of delinquent taxes; and

(b) Any applicable statutory provisions governing the state agency, officer, board, commission, corporation, institution, cabinet, department, or other state organization for the collection, refund, and administration of any liquidated debts due the state entity.

Section 6. KRS 131.585 is amended to read as follows:

There is hereby created within the Revenue Cabinet a state debt offset account, which will be subject to the provisions of the restricted fund group, as provided in KRS 48.010(13)(f), and all funds collected under KRS 131.565***(6)***[~~(5)~~] shall be credited thereto with only the expenses of the Revenue Cabinet related to development, implementation and administration of KRS 131.560 to 131.595 to be paid therefrom. This account shall not lapse.

HB 163, AN ACT relating to school finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 160.613 TO 160.617 IS CREATED TO READ AS FOLLOWS:

As used in KRS 160.613 to 160.617:

(1) "Cabinet" means the Revenue Cabinet;

(2) "Communications service" shall have the same meaning as provided in KRS 139.195;

(3) "Gross cost" means the total cost of utility services including the cost of the tangible personal property and any services associated with obtaining the utility services regardless from whom purchased.

(4) "Gross receipts" means all amounts received in money, credits, property, or other money's worth in any form, as consideration for the furnishing of utility services.

(5) "Utility services" means the furnishing of communications services, electric power, water, and natural, artificial and mixed gas.

Section 2. KRS 160.613 is amended to read as follows:

(1) There is hereby authorized a utility gross receipts license tax for schools not to exceed three percent (3%) of the gross receipts derived from the furnishing, within the ***district***[~~county~~], of ***interstate and intrastate utility services***[~~telephonic and telegraphic communications services, electric power, water, and natural, artificial, and mixed gas. "Gross receipts" includes all amounts received in money, credits, property, or other money's worth in any form, as consideration for the furnishing of the above utilities, except that "gross receipts" shall not include amounts received for furnishing energy or energy-producing fuels, used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production, and shall not include amounts received for furnishing any of the above utilities which are to be resold~~].

(2) ***If***[~~In the event that~~] any user of ***utility services***[~~telephonic and telegraphic communications services, electrical power, water, and natural, artificial, or mixed gas~~] purchases the ***utility services***[~~telephonic and telegraphic communications services, electrical power, water, and natural, artificial, or mixed gas~~] directly from any supplier who is exempt either by state or federal law from the utility gross receipts license tax[~~ under the provisions of subsection (1) of this section~~], then the consumer, if ***the***[~~such~~] tax has been levied in ***the consumer's***[~~his~~] district, shall be liable for the tax and shall pay directly to the ***cabinet***[~~county finance officer~~], in accordance with the provisions of KRS 160.615, a utility gross receipts license tax for schools computed by multiplying the gross cost of all ***utility services***[~~telephonic and telegraphic communications services, electrical power, water, and natural, artificial, or mixed gas~~] received by the tax rate levied under the provisions of this section.

[~~(3) "Gross cost" shall mean the total cost of the telephonic and telegraphic communications, electrical power, water, and natural, artificial, or mixed gas including the cost of the tangible personal property and any services associated with obtaining the telecommunication and telegraphic services or tangible personal property, such as gas, electricity, and water, regardless from whom purchased.~~

~~(4) The tax imposed by this section shall apply to mobile telecommunications services as defined in 4 U.S.C. sec. 124 only if the customer's place of primary use is within the jurisdictional boundaries of the taxing jurisdiction. The provisions of 4 U.S.C. secs. 116 to 126 are hereby adopted and incorporated by reference.~~

~~(5) If a customer believes that a tax, charge, fee, or assignment of place of primary use or taxing jurisdiction on a bill is incorrect, the customer shall notify the home service provider about the alleged error in writing. This notification shall include the street address for the customer's place of primary use, the account name and number for which the customer seeks a correction, a description of the alleged error, and any other information that the home service provider reasonably requires. Within sixty (60) days of receiving the customer's notification, the home service provider shall either correct the error and refund or credit all taxes, charges, and fees incorrectly charged to the customer within four (4) years of the customer's notification, or explain to the customer in writing how the bill was correct and why a refund or credit will not be made.~~

~~(6) A customer shall not have a cause of action against a home service provider for any erroneously collected taxes, charges, or fees until the customer has exhausted the procedure set forth in subsection (5) of this section.~~]

Section 3. KRS 160.614 is amended to read as follows:

(1) A utility gross receipts license tax initially levied by a school district board of education on or after July 13, 1990, shall be levied on the gross receipts derived from the furnishing of cable television services in addition to the gross receipts derived from the furnishing of the *utility* services *defined in Section 1 of this Act*[~~enumerated in KRS 160.613~~].

(2) A utility gross receipts license tax initially levied by a school district board of education prior to July 13, 1990, shall be levied on the gross receipts derived from the furnishing of cable television services, in addition to the gross receipts derived from the furnishing of the *utility* services *defined in Section 1 of this Act*[~~enumerated in KRS 160.613~~], if the school district board of education repeats the notice and hearing requirements of KRS 160.603, but only as to the levy of the tax on the gross receipts derived from the furnishing of cable television services.

Section 4. KRS 160.615 is amended to read as follows:

(1) The school taxes authorized by *Section 2 of this Act*[~~KRS 160.613~~] shall be due and payable monthly and shall be remitted *to the cabinet* on or before the twentieth day of the next succeeding calendar month.

(2) On or before the twentieth day of the month following each calendar month, a return for the preceding month shall be filed with the cabinet in the form prescribed by the cabinet, together with any tax due.

(3) For purposes of facilitating the administration, payment or collection of the taxes levied by Section 2 of this Act, the cabinet, in consultation with the impacted school district, may permit or require returns or tax payments for periods other than those prescribed in subsections (1) and (2) of this section.

(4) The cabinet may, upon written request received on or prior to the due date of the return or tax, for good cause satisfactory to the cabinet, extend the time for filing the return or paying the tax for a period not to exceed thirty (30) days.

(5) Any person to whom an extension is granted and who pays the tax within the period for which the extension is granted shall pay, in addition to the tax, interest at the tax interest rate as defined in KRS 131.010(6) from the date on which the tax would otherwise have been due.

SECTION 5. A NEW SECTION OF KRS 160.613 TO 160.617 IS CREATED TO READ AS FOLLOWS:

For purposes of administering the tax authorized by Section 2 of this Act relating to the sourcing of communications services and the rights of customers, the provisions of KRS 139.105(2), KRS 139.195, and KRS 139.775 shall apply.

SECTION 6. A NEW SECTION OF KRS 160.613 TO 160.617 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall collect all taxes imposed by school districts pursuant to Section 2 of this Act, and shall have all the powers, rights, duties and authority with respect to the collection, refund and administration of this tax as provided under KRS Chapters 131, 134 and 135, except as otherwise provided in KRS 160.613 to 160.617. The cabinet shall distribute the taxes collected to each school district imposing the tax on at least a quarterly basis. Distributions shall be made in accordance with the district boundary information submitted to the cabinet pursuant to Section 9 of this Act, as modified by any adjustments or agreements made pursuant to the provisions of Section 7 of this Act.

(2) From each distribution, the cabinet shall deduct an amount which represents the proportionate share of the cabinet's operating and overhead expenses incurred in the collection and administration of the tax. The cabinet shall report its actual expenses and the allocation of expenses among school districts to the Kentucky Board of Education on a quarterly basis.

(3) As soon as practicable after each return is received, the cabinet shall examine and audit it. If the amount of tax computed by the cabinet is greater than the amount returned by the taxpayer, the excess shall be assessed by the cabinet on behalf of the school district within two (2) years from the date prescribed by law for the filing of the return including any extensions granted, except as provided in this section. A notice of the assessment shall be mailed to the taxpayer.

(4) In the case of a failure to file an return or a fraudulent return, the excess may be assessed at any time.

SECTION 7. A NEW SECTION OF KRS 160.613 TO 160.617 IS CREATED TO READ AS FOLLOWS:

(1) If the cabinet determines that the allocation among districts as submitted by the taxpayer on the return varies from the school district boundary information submitted to the cabinet pursuant to Section 9 of this Act, the cabinet shall:

(a) Make a proposed administrative adjustment to correct the erroneous allocation going forward;

(b) Determine whether the erroneous allocation was used on prior returns and if it was, make a proposed administrative adjustment going back a maximum of one (1) year from the date the erroneous allocation was discovered; and

(c) Retain taxes collected and still on hand for distribution to the impacted districts that are related to the erroneous allocation until the proposed administrative adjustment becomes final.

(2) Within ten (10) days of the discovery of the erroneous allocation, the cabinet shall notify the taxpayer and the impacted school districts in writing of the allocation discrepancy, including the dollar amount at issue, the proposed administrative adjustment to be made, and the process for agreeing to or filing an exception to the proposed administrative adjustment.

(3) The proposed administrative adjustment shall become final upon the earlier of the receipt by the cabinet of written acceptance of the administrative adjustment by all impacted school districts or the expiration of forty-five (45) days from the date of the notice with no exception having been filed.

(4) (a) Exceptions to the proposed administrative adjustment shall be filed with the secretary of the cabinet, within forty-five (45) days from the date of the notice, and shall include a supporting statement setting forth the basis of the exception. A copy of any exception filed shall also be mailed to the impacted utility services provider and any other impacted school district.

(b) After the exception has been filed, the impacted school district may request a conference with the cabinet. The request shall be granted in writing stating the time and date of the conference. Other impacted school districts and the impacted utility services provider may also attend any conference. Additional conferences may be held upon mutual agreement.

(c) After considering the exceptions filed by the impacted school district, including any information provided during any conferences, a final administrative ruling shall be issued by the cabinet. The final administrative ruling shall be mailed to all impacted school districts as well as the impacted utility services provider.

(d) The impacted school district filing the exception may request in writing a final ruling at any time after filing exceptions and a supporting statement, and the cabinet shall issue the ruling within thirty (30) days after the request is received by the cabinet.

(e) After a final ruling has been issued, the school district may appeal to the Franklin Circuit Court or to the Circuit Court of the county in which the school district is located.

(5) The method and timing of the implementation of a final administrative ruling that requires a reallocation of previously distributed tax receipts shall be determined by agreement of the impacted school districts, provided that any agreement allowing for adjustments to be made over time in the future shall not extend beyond four (4) years.

(a) The cabinet shall, upon request of the impacted school districts, assist in the development of an agreement.

(b) An agreement that requires distribution changes that vary from the district boundary information shall be provided to the cabinet so that distributions can be made in accordance with the agreement.

(c) If the impacted school districts fail to reach an agreement regarding the reallocation of previously distributed tax receipts, the cabinet shall adjust distributions going forward for four (4) years so that at the expiration of four (4) years, the district that should have received the original distribution has recouped all of the funds distributed erroneously, and the district that erroneously received the funds has repaid all of the funds distributed erroneously.

SECTION 8. A NEW SECTION OF KRS 160.613 TO 160.617 IS CREATED TO READ AS FOLLOWS:

(1) Any utility service provider that has paid the utility gross receipts tax imposed by a school district pursuant to Section 2 of this Act may request a refund or credit for any overpayment of tax or any payment where no tax was due within two (2) years after the tax due date, including any extensions granted.

(2) A request for refund shall be in writing, and shall be made to the cabinet with a copy to the school district to which the tax was allocated. The request shall state the amount requested, the applicable period, and the basis for the request.

(3) Refunds shall be authorized by the cabinet, in consultation with the chairman or finance officer of the district board of education, with interest as provided in KRS 131.183.

(4) The cabinet shall make authorized refunds from current tax collections in its possession for the district. If sufficient funds are not available, the cabinet shall notify the school district and the school district shall make the refund.

(5) If the cabinet denies a requested refund in whole or in part, the taxpayer may appeal the denial to the Circuit Court in the county where the school district is located.

SECTION 9. A NEW SECTION OF KRS 160.613 TO 160.617 IS CREATED TO READ AS FOLLOWS:

(1) The superintendent of schools in each school district levying the tax permitted by KRS 160.593 shall, on or before March 31, 2005 provide to the cabinet and to each entity providing utility services within the school district, the boundaries of the school district.

(2) If the boundaries reported to the cabinet and to each entity providing utility services within the school district change, the superintendent of schools shall report the boundary changes to the cabinet and to each entity providing utility services within the school district.

(3) The cabinet and entities providing utility services within the school district shall allocate tax payments among the various school districts imposing the tax authorized by Section 2 of this Act in accordance with the most recent boundary information provided by the superintendents, as adjusted by any agreements entered into pursuant to Section 7 of this Act. The cabinet and entities providing utility services within a school district shall not be responsible for distribution errors resulting from incorrect boundary information provided pursuant to this section, and may rely upon the most recent boundary information and any agreements entered into pursuant to Section 7 of this Act and provided by each superintendent as accurate.

(4) If there is a conflict regarding school district boundaries, the cabinet may, until the conflict is resolved, distribute the

total tax revenues collected for the districts involved in the conflict proportionately to the districts based upon the average daily attendance in the districts for the previous school year.

SECTION 10. A NEW SECTION OF KRS 160.613 TO 160.617 IS CREATED TO READ AS FOLLOWS:

The uniform penalty provisions of KRS 131.180 shall apply to all taxes levied by school districts pursuant to Section 2 of this Act.

SECTION 11. A NEW SECTION OF KRS 160.613 TO 160.617 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provisions to the contrary, the secretary of the cabinet, in consultation with impacted school district, may waive any penalty, but not interest, where it is shown to the satisfaction of the cabinet that the failure to file or pay timely is due to reasonable cause.

Section 12. KRS 160.617 is amended to read as follows:

Notwithstanding the provisions of KRS 278.040(2), any utility ***services provider*** required to pay the tax authorized by KRS 160.613 may increase its rates in any ***school district***[~~county~~] in which it is required to pay the school tax by three percent (3%). Any utility so increasing its rates shall separately state on the bills sent to its customers the amount of ***the***[~~such~~] increase and shall identify ***the***[~~such~~] amount as: "Rate increase for school tax."

Section 13. KRS 160.640 is amended to read as follows:

Any person having custody of the proceeds of any school tax authorized by KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633***, except the Revenue Cabinet,*** shall be required to secure a corporate surety bond in an amount to be set by the Kentucky Board of Education. The cost of the surety bond shall be considered a part of the cost of the administration of the school taxes authorized under KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633.

Section 14. KRS 160.648 is amended to read as follows:

(1) Any person, individual, or corporation required by the provisions of KRS 160.605 to 160.611[~~, 160.613 to 160.617,~~] and 160.621 to 160.633 to file any return or report or furnish any information requested under the authority of KRS 160.605 to 160.611[~~, 160.613 to 160.617,~~] and 160.621 to 160.633 who fails to file such return or report or furnish such information on or before the date required shall pay a penalty in the amount of ten dollars ($10) for each[~~ such~~] failure.

(2) Any person, individual, or corporation who fails to pay, on or before the due date, any school tax authorized by KRS 160.605 to 160.611[~~, 160.613 to 160.617,~~] and 160.621 to 160.633 and levied by the district board of education shall pay a penalty of one percent (1%) per month of the amount of such tax past due until paid.

Section 15. KRS 160.520 is amended to read as follows:

The laws applying to penalties on and the collection of delinquent school taxes***, except the taxes imposed by KRS 160.613 to 160.617*** shall be the same as the general laws applying to penalties on and the collection of delinquent taxes of the taxing districts which embrace the various school districts.

Section 16. This Act takes effect July 1, 2005.

The Committee Substitute to **HB 163** is as follows:

HB 163, AN ACT relating to school finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 160.613 TO 160.617 IS CREATED TO READ AS FOLLOWS:

As used in KRS 160.613 to 160.617:

(1) "Cabinet" means the Revenue Cabinet;

(2) "Communications service" shall have the same meaning as provided in KRS 139.195;

(3) "Gross cost" means the total cost of utility services including the cost of the tangible personal property and any services associated with obtaining the utility services regardless from whom purchased.

(4) "Gross receipts" means all amounts received in money, credits, property, or other money's worth in any form, as consideration for the furnishing of utility services.

(5) "Utility services" means the furnishing of communications services, electric power, water, and natural, artificial, and mixed gas.

Section 2. KRS 160.613 is amended to read as follows:

(1) There is hereby authorized a utility gross receipts license tax for schools not to exceed three percent (3%) of the gross receipts derived from the furnishing, within the ***district***[~~county~~], of ***utility services***[~~telephonic and telegraphic communications services, electric power, water, and natural, artificial, and mixed gas. "Gross receipts" includes all amounts received in money, credits, property, or other money's worth in any form, as consideration for the furnishing of the above utilities~~], except that "gross receipts" shall not include amounts received for furnishing energy or energy-producing fuels, used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production, and shall not include amounts

received for furnishing any of the above utilities which are to be resold.

(2) *If*[~~In the event that~~] any user of *utility services*[~~telephonic and telegraphic communications services, electrical power, water, and natural, artificial, or mixed gas~~] purchases the *utility services*[~~telephonic and telegraphic communications services, electrical power, water, and natural, artificial, or mixed gas~~] directly from any supplier who is exempt either by state or federal law from the utility gross receipts license tax[~~ under the provisions of subsection (1) of this section~~], then the consumer, if *the*[~~such~~] tax has been levied in *the consumer's*[~~his~~] district, shall be liable for the tax and shall pay directly to the *cabinet*[~~county finance officer~~], in accordance with the provisions of KRS 160.615, a utility gross receipts license tax for schools computed by multiplying the gross cost of all *utility services*[~~telephonic and telegraphic communications services, electrical power, water, and natural, artificial, or mixed gas~~] received by the tax rate levied under the provisions of this section.

[~~(3) "Gross cost" shall mean the total cost of the telephonic and telegraphic communications, electrical power, water, and natural, artificial, or mixed gas including the cost of the tangible personal property and any services associated with obtaining the telecommunication and telegraphic services or tangible personal property, such as gas, electricity, and water, regardless from whom purchased.~~

~~(4) The tax imposed by this section shall apply to mobile telecommunications services as defined in 4 U.S.C. sec. 124 only if the customer's place of primary use is within the jurisdictional boundaries of the taxing jurisdiction. The provisions of 4 U.S.C. secs. 116 to 126 are hereby adopted and incorporated by reference.~~

~~(5) If a customer believes that a tax, charge, fee, or assignment of place of primary use or taxing jurisdiction on a bill is incorrect, the customer shall notify the home service provider about the alleged error in writing. This notification shall include the street address for the customer's place of primary use, the account name and number for which the customer seeks a correction, a description of the alleged error, and any other information that the home service provider reasonably requires. Within sixty (60) days of receiving the customer's notification, the home service provider shall either correct the error and refund or credit all taxes, charges, and fees incorrectly charged to the customer within four (4) years of the customer's notification, or explain to the customer in writing how the bill was correct and why a refund or credit will not be made.~~

~~(6) A customer shall not have a cause of action against a home service provider for any erroneously collected taxes, charges, or fees until the customer has exhausted the procedure set forth in subsection (5) of this section.~~]

Section 3. KRS 160.614 is amended to read as follows:

(1) A utility gross receipts license tax initially levied by a school district board of education on or after July 13, 1990, shall be levied on the gross receipts derived from the furnishing of cable television services in addition to the gross receipts derived from the furnishing of the *utility* services *defined in Section 1 of this Act*[~~enumerated in KRS 160.613~~].

(2) A utility gross receipts license tax initially levied by a school district board of education prior to July 13, 1990, shall be levied on the gross receipts derived from the furnishing of cable television services, in addition to the gross receipts derived from the furnishing of the *utility* services *defined in Section 1 of this Act*[~~enumerated in KRS 160.613~~], if the school district board of education repeats the notice and hearing requirements of KRS 160.603, but only as to the levy of the tax on the gross receipts derived from the furnishing of cable television services.

Section 4. KRS 160.615 is amended to read as follows:

(1) The school taxes authorized by *Sections 2 and 3 of this Act*[~~KRS 160.613~~] shall be due and payable monthly and shall be remitted *to the cabinet* on or before the twentieth day of the next succeeding calendar month.

(2) On or before the twentieth day of the month following each calendar month, a return for the preceding month shall be filed with the cabinet in the form prescribed by the cabinet, together with any tax due.

(3) For purposes of facilitating the administration, payment or collection of the taxes levied by Sections 2 and 3 of this Act, the cabinet, in consultation with the impacted school district, may permit or require returns or tax payments for periods other than those prescribed in subsections (1) and (2) of this section.

(4) The cabinet may, upon written request received on or prior to the due date of the return or tax, for good cause satisfactory to the cabinet, extend the time for filing the return or paying the tax for a period not to exceed thirty (30) days.

(5) Any person to whom an extension is granted and who pays the tax within the period for which the extension is granted shall pay, in addition to the tax, interest at the tax interest rate as defined in KRS 131.010(6) from the date on which the tax would otherwise have been due.

SECTION 5. A NEW SECTION OF KRS 160.613 TO 160.617 IS CREATED TO READ AS FOLLOWS:

For purposes of administering the taxes authorized by Sections 2 and 3 of this Act relating to the sourcing of communications services and the rights of customers, the provisions of KRS 139.105(2), KRS 139.195, and KRS 139.775 shall apply.

SECTION 6. A NEW SECTION OF KRS 160.613 TO 160.617 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall collect all taxes imposed by school districts pursuant to Sections 2 and 3 of this Act, and shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of these taxes as provided under KRS Chapters 131, 134, and 135, except as otherwise provided in KRS 160.613 to 160.617. The cabinet

shall distribute the taxes collected to each school district imposing the tax on at least a quarterly basis. Distributions shall be made in accordance with the district boundary information submitted to the cabinet pursuant to Section 9 of this Act, as modified by any adjustments or agreements made pursuant to the provisions of Section 7 of this Act.

(2) From each distribution, the cabinet shall deduct an amount which represents the proportionate share of the cabinet's actual operating and overhead expenses incurred in the collection and administration of the taxes not to exceed one percent (1%) of the amount collected. The cabinet shall report its actual expenses and the allocation of expenses among school districts to the Kentucky Board of Education on a quarterly basis.

(3) As soon as practicable after each return is received, the cabinet may examine and audit it. If the amount of tax computed by the cabinet is greater than the amount returned by the taxpayer, the excess shall be assessed by the cabinet on behalf of the school district within two (2) years from the date prescribed by law for the filing of the return including any extensions granted, except as provided in this section. A notice of the assessment shall be mailed to the taxpayer.

(4) In the case of a failure to file a return or the filing of a fraudulent return, the excess may be assessed at any time.

SECTION 7. A NEW SECTION OF KRS 160.613 TO 160.617 IS CREATED TO READ AS FOLLOWS:

(1) If the cabinet determines that the allocation among districts as submitted by the taxpayer on the return varies from the school district boundary information submitted to the cabinet pursuant to Section 9 of this Act, the cabinet shall:

(a) Make a proposed administrative adjustment to correct the erroneous allocation going forward;

(b) Determine whether the erroneous allocation was used on prior returns and if it was, make a proposed administrative adjustment going back a maximum of one (1) year from the date the erroneous allocation was discovered; and

(c) Retain taxes collected and still on hand for distribution to the impacted districts that are related to the erroneous allocation until the proposed administrative adjustment becomes final.

(2) Within ten (10) days of the discovery of the erroneous allocation, the cabinet shall notify the taxpayer and the impacted school districts in writing of the allocation discrepancy, including the dollar amount at issue, the proposed administrative adjustment to be made, and the process for agreeing to or filing an exception to the proposed administrative adjustment.

(3) The proposed administrative adjustment shall become final upon the earlier of the receipt by the cabinet of written acceptance of the administrative adjustment by all impacted school districts or the expiration of forty-five (45) days from the date of the notice with no exception having been filed.

(4) (a) Exceptions to the proposed administrative adjustment shall be filed with the secretary of the cabinet, within forty-five (45) days from the date of the notice, and shall include a supporting statement setting forth the basis of the exception. A copy of any exception filed shall also be mailed to the impacted utility services provider and any other impacted school district.

(b) After the exception has been filed, the impacted school district may request a conference with the cabinet. The request shall be granted in writing stating the time and date of the conference. Other impacted school districts and the impacted utility services provider may also attend any conference. Additional conferences may be held upon mutual agreement.

(c) After considering the exceptions filed by the impacted school district, including any information provided during any conferences, a final administrative ruling shall be issued by the cabinet. The final administrative ruling shall be mailed to all impacted school districts as well as the impacted utility services provider.

(d) The impacted school district filing the exception may request in writing a final ruling at any time after filing exceptions and a supporting statement, and the cabinet shall issue the ruling within thirty (30) days after the request is received by the cabinet.

(e) After a final ruling has been issued, the school district may appeal to the Franklin Circuit Court or to the Circuit Court of the county in which the school district is located.

(5) The method and timing of the implementation of a final administrative ruling that requires a reallocation of previously distributed tax receipts shall be determined by agreement of the impacted school districts, provided that any agreement allowing for adjustments to be made over time in the future shall not extend beyond four (4) years.

(a) The cabinet shall, upon request of the impacted school districts, assist in the development of an agreement.

(b) An agreement that requires distribution changes that vary from the district boundary information shall be provided to the cabinet so that distributions can be made in accordance with the agreement.

(c) If the impacted school districts fail to reach an agreement regarding the reallocation of previously distributed tax receipts, the cabinet shall adjust distributions going forward for four (4) years so that at the expiration of four (4) years, the district that should have received the original distribution has recouped all of the funds distributed erroneously, and the district that erroneously received the funds has repaid all of the funds distributed erroneously.

SECTION 8. A NEW SECTION OF KRS 160.613 TO 160.617 IS CREATED TO READ AS FOLLOWS:

(1) Any utility service provider that has paid the utility gross receipts tax imposed by a school district pursuant to Sections 2 and 3 of this Act may request a refund or credit for any overpayment of tax or any payment where no tax was due within two (2) years after the tax due date, including any extensions granted.

(2) A request for refund shall be in writing, and shall be made to the cabinet with a copy to the school district to which the tax was allocated. The request shall state the amount requested, the applicable period, and the basis for the request.

(3) Refunds shall be authorized by the cabinet, in consultation with the chairman or finance officer of the district board of education, with interest as provided in KRS 131.183.

(4) The cabinet shall make authorized refunds from current tax collections in its possession for the district. If sufficient funds are not available, the cabinet shall notify the school district and the school district shall make the refund.

(5) If the cabinet denies a requested refund in whole or in part, the taxpayer may appeal the denial to the Circuit Court in the county where the school district is located.

SECTION 9. A NEW SECTION OF KRS 160.613 TO 160.617 IS CREATED TO READ AS FOLLOWS:

(1) The superintendent of schools in each school district levying the tax permitted by KRS 160.593 shall, on or before March 31, 2005 provide to the cabinet and to each entity providing utility services within the school district, the boundaries of the school district.

(2) If the boundaries reported to the cabinet and to each entity providing utility services within the school district change, the superintendent of schools shall report the boundary changes to the cabinet and to each entity providing utility services within the school district.

(3) The cabinet and entities providing utility services within the school district shall allocate tax payments among the various school districts imposing the taxes authorized by Sections 2 and 3 of this Act in accordance with the most recent boundary information provided by the superintendents, as adjusted by any agreements entered into pursuant to Section 7 of this Act. The cabinet and entities providing utility services within a school district shall not be responsible for nor subject to the imposition of penalties or interest relating to, distribution errors resulting from incorrect boundary information provided pursuant to this section, and may rely upon the most recent boundary information and any agreements entered into pursuant to Section 7 of this Act and provided by each superintendent as accurate.

(4) If there is a conflict regarding school district boundaries, the cabinet may, until the conflict is resolved, distribute the total tax revenues collected for the districts involved in the conflict proportionately to the districts based upon the average daily attendance in the districts for the previous school year.

SECTION 10. A NEW SECTION OF KRS 160.613 TO 160.617 IS CREATED TO READ AS FOLLOWS:

The uniform penalty provisions of KRS 131.180 shall apply to all taxes levied by school districts pursuant to Sections 2 and 3 of this Act.

SECTION 11. A NEW SECTION OF KRS 160.613 TO 160.617 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provisions to the contrary, the secretary of the cabinet, in consultation with impacted school district, shall waive any penalty, but not interest, where it is shown to the satisfaction of the cabinet that the failure to file or pay timely is due to reasonable cause.

SECTION 12. A NEW SECTION OF KRS 160.613 TO 160.617 IS CREATED TO READ AS FOLLOWS:

The taxes collected by the cabinet pursuant to KRS 160.613 to 160.617 are remitted to the cabinet for administrative purposes only and shall remain the property of the local school districts levying the tax. The amounts so collected shall not be distributed, allocated, expended, or used in any manner except as provided in KRS 160.613 to 160.617.

Section 13. KRS 160.617 is amended to read as follows:

Notwithstanding the provisions of KRS 278.040(2), any utility *services provider* required to pay the tax authorized by KRS 160.613 may increase its rates in any *school district*[~~county~~] in which it is required to pay the school tax by three percent (3%). Any utility so increasing its rates shall separately state on the bills sent to its customers the amount of *the*[~~such~~] increase and shall identify *the*[~~such~~] amount as: "Rate increase for school tax."

Section 14. KRS 160.640 is amended to read as follows:

Any person having custody of the proceeds of any school tax authorized by KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633*, except the Revenue Cabinet,* shall be required to secure a corporate surety bond in an amount to be set by the Kentucky Board of Education. The cost of the surety bond shall be considered a part of the cost of the administration of the school taxes authorized under KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633.

Section 15. KRS 160.648 is amended to read as follows:

(1) Any person, individual, or corporation required by the provisions of KRS 160.605 to 160.611[~~, 160.613 to 160.617,~~] and 160.621 to 160.633 to file any return or report or furnish any information requested under the authority of KRS 160.605 to 160.611[~~, 160.613 to 160.617,~~] and 160.621 to 160.633 who fails to file such return or report or furnish such information on or before the date required shall pay a penalty in the amount of ten dollars ($10) for each[~~ such~~] failure.

(2) Any person, individual, or corporation who fails to pay, on or before the due date, any school tax authorized by KRS 160.605 to 160.611[~~, 160.613 to 160.617,~~] and 160.621 to 160.633 and levied by the district board of education shall pay

a penalty of one percent (1%) per month of the amount of such tax past due until paid.

Section 16. KRS 160.520 is amended to read as follows:

The laws applying to penalties on and the collection of delinquent school taxes***, except the taxes imposed by KRS 160.613 to 160.617*** shall be the same as the general laws applying to penalties on and the collection of delinquent taxes of the taxing districts which embrace the various school districts.

Section 17. This Act takes effect July 1, 2005.

The Committee on State Government reported **HB 226**, with Committee Substitute attached thereto, **HB 289, HB 325**, with Committee Substitute attached thereto, and **HB 340**, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 226, AN ACT relating to wireless communications.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.5162 is amended to read as follows:

As used in KRS 11.5161 to 11.5163, unless the context requires otherwise:

(1) "Architecture" means the design principles, physical structure, and functional organization of a land mobile radio system;

(2) "Frequency" means for a periodic function, the number of cycles or events per unit time ***that comprises the frequency spectrum used by or assigned to a wireless public safety voice or data communications system***;

(3) "Interoperability" means:

(a) ***The ability of public safety agencies to be able to communicate with one another; to exchange voice or data with one another in real time;***

(b) The ability of systems, units, or forces to provide services to and accept services from other systems, units, or forces and to use the services so exchanged to enable them to operate effectively together; and

(c)[~~(b)~~]The condition achieved among communications-electronics systems or items of communications-electronic equipment when information or services can be exchanged directly and satisfactorily between them and their users;

(4) ***"Primary wireless public safety voice or data communications systems" means a regular interacting group of base, mobile, and associated control and fixed relay stations intended to provide land mobile radio voice or data communications service over a single area of operation for public safety agencies.***

(5) "Public safety shared infrastructure" means any component that by the nature of its function or physical characteristics can be used by multiple agencies to implement or support primary wireless public safety voice or data communications systems. This shall include but not be limited to towers, equipment shelters, radios, and other electronic equipment, backbone communications networks, and communications related software.

(6) "Public safety working group" means a working group whose mission is to design and develop a seamless coordinated plan for the use of the public safety frequency spectrum as regulated by the Federal Communications Commission;

(7)[~~(5)~~] "Spectrum" means a usable radio frequency in the electromagnetic distribution; and

(8)[~~(6)~~] "Standards" means:

(a) Engineering and technical requirements that are necessary to be employed in the design of systems, units, or forces and to use the services so exchanged to enable them to operate effectively together***, including but not limited to operating frequencies, over-the-air protocols, and bandwidth***; and

(b) Established protocol that provides a common interface.

Section 2. KRS 11.5163 is amended to read as follows:

(1) The chief information officer shall establish and implement a statewide public safety interoperability plan. This plan shall include the development [~~and recommendation~~]of ***required*** architecture and standards that will insure that new or upgraded Commonwealth public safety communications systems will interoperate. The chief information officer shall provide direction, stewardship, leadership, and general oversight of information technology and information resources. The chief information officer shall report by September 15 annually to the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection and the Interim Joint Committee on State Government on progress and activity by agencies of the Commonwealth to comply with standards to achieve public safety communications interoperability.

(2) The Kentucky Wireless Interoperability Executive Committee shall serve as the advisory body for all wireless communications strategies presented by agencies of the Commonwealth ***and local governments. All state and local governmental agencies in the Commonwealth utilizing state or federal funds for primary wireless public safety voice or data communications systems shall present all project plans for review by the committee, and shall forward the plans to the chief information officer for final approval***. The committee shall be responsible for the evaluation and recommendation of all wireless communications architecture, standards, and strategies presented by state ***and local*** agencies, and shall forward these to the chief information officer for final approval. ***The committee shall develop funding***

and support plans that provide for the maintenance of and technological upgrades to the public safety shared infrastructure, and shall make recommendations to the chief information officer, the Governor's Office for Policy and Management, and the General Assembly.

(3) ***The chief information officer shall examine the project plans required by subsection (2) of this section, and shall determine whether they meet the required architecture and standards for primary wireless public safety voice or data communications systems. No state or local governmental agency shall receive state funds for primary wireless public safety voice or data communications systems unless the chief information officer has determined that the required standards have been met. No state or local governmental agency shall receive federal funds for primary wireless public safety voice or data communications systems distributed through and at the discretion of a state agency unless the chief information officer has determined that the required standards have been met.***

(4) Agencies that are not required to submit project plans for approval are encouraged to present their plans to the chief information officer for review and recommendations. The review would assist in fostering coordination of architecture and standards for primary wireless public safety voice or data communications systems, with the goal of assuring interoperability of wireless communications systems.

(5) The Kentucky Wireless Interoperability Executive Committee shall consist of twenty-one (21) members as follows:

(a) A person knowledgeable in the field of wireless communications appointed by the chief information officer who shall serve as chair;

(b) The executive director of the Office for Infrastructure Services, Governor's Office for Technology;

(c) The administrator of the Commercial Mobile Radio Service Emergency Telecommunications Board;

(d) The executive director of Kentucky Educational Television, or the executive director's designee;

(e) The chief information officer of the Transportation Cabinet;

(f) The chief information officer of the Justice Cabinet;

(g) The chief information officer of the Kentucky State Police;

(h) The commissioner of the Department of Fish and Wildlife Resources, Tourism Development Cabinet, or the commissioner's designee;

(i) The chief information officer of the National Resources and Environmental Protection Cabinet;

(j) The director of the Department of Emergency Management, Department of Military Affairs;

(k) The executive director of the Office for Security Coordination, Department of Military Affairs;

(l) The chief information officer, Department for Public Health, Cabinet for Health Services;

(m) A representative from an institution of postsecondary education appointed by the Governor from a list of three (3) names submitted by the president of the Council on Postsecondary Education;

(n) The executive director of the Center for Rural Development, or the executive director's designee;

(o) A representative from a municipal government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky League of Cities;

(p) A representative from a county government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Counties;

(q) A representative from a municipal police department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Chiefs of Police;

(r) A representative from a local fire department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Fire Chiefs;

(s) A representative from a county sheriff's department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Sheriffs' Association;

(t) A representative from a local Emergency Medical Services agency to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Board of Emergency Medical Services; and

(u) A representative from a local 911 dispatch center to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Chapter of the National Emergency Number Association/Association of Public Safety Communications Officials.

(4) Appointed members of the committee shall serve for a two (2) year term. Members who serve by virtue of an office shall serve on the committee while they hold that office.

(5) The committee shall meet quarterly, or as often as necessary for the conduct of its business. A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at committee meetings.

(6) The committee shall be attached to the Governor's Office for Technology for administrative purposes only. Members shall not be paid, and shall not be reimbursed for travel expenses.

(7) The Public Safety Working Group is hereby created for the primary purpose of fostering cooperation, planning, and development of the public safety frequency spectrum as regulated by the Federal Communications Commission, including the 700 MHz public safety band. The group shall endeavor to bring about a seamless, coordinated, and integrated public safety communications network for the safe, effective, and efficient protection of life and property. The Public Safety Working Group membership and other working group memberships deemed necessary shall be appointed by the chair of the Kentucky Wireless Interoperability Executive Committee.

(8) The committee may establish additional working groups as determined by the committee.

The Committee Substitute to **HB 226** is as follows:

HB 226, AN ACT relating to wireless communications.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.5162 is amended to read as follows:

As used in KRS 11.5161 to 11.5163, unless the context requires otherwise:

(1) "Architecture" means the design principles, physical structure, and functional organization of a land mobile radio system;

(2) "Frequency" means for a periodic function, the number of cycles or events per unit time ***that comprises the frequency spectrum used by or assigned to a wireless public safety voice or data communications system***;

(3) "Interoperability" means:

(a) ***The ability of public safety agencies to be able to communicate with one another; to exchange voice or data with one another in real time;***

(b) The ability of systems, units, or forces to provide services to and accept services from other systems, units, or forces and to use the services so exchanged to enable them to operate effectively together; and

(c)[~~(b)~~]The condition achieved among communications-electronics systems or items of communications-electronic equipment when information or services can be exchanged directly and satisfactorily between them and their users;

(4) ***"Primary wireless public safety voice or data communications systems" means a regular interacting group of base, mobile, and associated control and fixed relay stations intended to provide land mobile radio voice or data communications service over a single area of operation for public safety agencies. This definition shall not include "911" telephone systems;***

(5) "Public safety shared infrastructure" means any component that by the nature of its function or physical characteristics can be used by multiple agencies to implement or support primary wireless public safety voice or data communications systems. This shall include but not be limited to towers, equipment shelters, radios, and other electronic equipment, backbone communications networks, and communications related software;

(6) "Public safety working group" means a working group whose mission is to design and develop a seamless coordinated plan for the use of the public safety frequency spectrum as regulated by the Federal Communications Commission;

(7)[~~(5)~~] "Spectrum" means a usable radio frequency in the electromagnetic distribution; and

(8)[~~(6)~~] "Standards" means:

(a) Engineering and technical requirements that are necessary to be employed in the design of systems, units, or forces and to use the services so exchanged to enable them to operate effectively together***, including but not limited to operating frequencies, over-the-air protocols, and bandwidth***; and

(b) Established protocol that provides a common interface.

Section 2. KRS 11.5163 is amended to read as follows:

(1) The chief information officer shall establish and implement a statewide public safety interoperability plan. This plan shall include the development [~~and recommendation~~]of ***required*** architecture and standards that will insure that new or upgraded Commonwealth public safety communications systems will interoperate. ***The Kentucky Wireless Interoperability Executive Committee shall be responsible for the evaluation and recommendation of all wireless communications architecture, standards, and strategies.*** The chief information officer shall provide direction, stewardship, leadership, and general oversight of information technology and information resources. The chief information officer shall report by September 15 annually to the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection and the Interim Joint Committee on State Government on progress and activity by agencies of the Commonwealth to comply with standards to achieve public safety communications interoperability.

(2) The Kentucky Wireless Interoperability Executive Committee shall serve as the advisory body for all wireless communications strategies presented by agencies of the Commonwealth ***and local governments. All state agencies in the Commonwealth shall present all project plans for primary wireless public safety voice or data communications systems for review and recommendation by the committee, and the committee shall forward the plans to the chief information officer for final approval. Local government entities shall present project plans for primary wireless public safety voice or data communications systems for review and recommendation by the Kentucky Wireless Interoperability Executive***

Committee[~~. The committee shall be responsible for the evaluation and recommendation of all wireless communications architecture, standards, and strategies presented by state agencies, and shall forward these to the chief information officer for final approval~~].

(3) ***The committee shall develop funding and support plans that provide for the maintenance of and technological upgrades to the public safety shared infrastructure, and shall make recommendations to the chief information officer, the Governor's Office for Policy and Management, and the General Assembly.***

(4) The chief information officer shall examine the project plans for primary wireless public safety voice or data communications systems of state agencies as required by subsection (2) of this section, and shall determine whether they meet the required architecture and standards for primary wireless public safety voice or data communications systems.

(5) The Kentucky Wireless Interoperability Executive Committee shall consist of twenty-one (21) members as follows:

(a) A person knowledgeable in the field of wireless communications appointed by the chief information officer who shall serve as chair;

(b) The executive director of the Office for Infrastructure Services, Governor's Office for Technology;

(c) The administrator of the Commercial Mobile Radio Service Emergency Telecommunications Board;

(d) The executive director of Kentucky Educational Television, or the executive director's designee;

(e) The chief information officer of the Transportation Cabinet;

(f) The chief information officer of the Justice Cabinet;

(g) The chief information officer of the Kentucky State Police;

(h) The commissioner of the Department of Fish and Wildlife Resources, Tourism Development Cabinet, or the commissioner's designee;

(i) The chief information officer of the National Resources and Environmental Protection Cabinet;

(j) The director of the Department of Emergency Management, Department of Military Affairs;

(k) The executive director of the Office for Security Coordination, Department of Military Affairs;

(l) The chief information officer, Department for Public Health, Cabinet for Health Services;

(m) A representative from an institution of postsecondary education appointed by the Governor from a list of three (3) names submitted by the president of the Council on Postsecondary Education;

(n) The executive director of the Center for Rural Development, or the executive director's designee;

(o) A representative from a municipal government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky League of Cities;

(p) A representative from a county government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Counties;

(q) A representative from a municipal police department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Chiefs of Police;

(r) A representative from a local fire department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Fire Chiefs;

(s) A representative from a county sheriff's department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Sheriffs' Association;

(t) A representative from a local Emergency Medical Services agency to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Board of Emergency Medical Services; and

(u) A representative from a local 911 dispatch center to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Chapter of the National Emergency Number Association/Association of Public Safety Communications Officials.

(6)[~~(4)~~] Appointed members of the committee shall serve for a two (2) year term. Members who serve by virtue of an office shall serve on the committee while they hold that office.

(7)[~~(5)~~] The committee shall meet quarterly, or as often as necessary for the conduct of its business. A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at committee meetings.

(8)[~~(6)~~] The committee shall be attached to the Governor's Office for Technology for administrative purposes only. Members shall not be paid, and shall not be reimbursed for travel expenses.

(9)[~~(7)~~] The Public Safety Working Group is hereby created for the primary purpose of fostering cooperation, planning, and development of the public safety frequency spectrum as regulated by the Federal Communications Commission, including the 700 MHz public safety band. The group shall endeavor to bring about a seamless, coordinated, and integrated public safety communications network for the safe, effective, and efficient protection of life and property. The Public Safety

Working Group membership and other working group memberships deemed necessary shall be appointed by the chair of the Kentucky Wireless Interoperability Executive Committee.

(10)[~~(8)~~] The committee may establish additional working groups as determined by the committee.

HB 289, AN ACT relating to county consolidation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

It is the intent of the General Assembly to encourage county governments to perform at the highest levels of efficiency and economy while providing the highest standards of governmental services possible to their citizens. It is also the belief of the General Assembly that, in order to attain these high standards of efficiency, economy, and service and to ensure the ongoing improvement in the quality of life of all citizens of the Commonwealth, all county governments must be permitted by the action of their fiscal courts or at the request of their citizens to consider consolidation with adjoining counties for these purposes. The General Assembly, in support of those counties that take action to consolidate, further intends to provide financial and technical assistance for those counties through legislative action in order to ease the transitions brought by consolidation.

SECTION 2. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Any two (2) or more adjoining counties may consolidate.

(2) (a) An action to consolidate a county may be initiated by:

1. The adoption of an ordinance by a fiscal court stating the intent of the county to consider consolidation with another county or counties; or

2. The petitioning of the fiscal court by residents who are registered voters within the county.

(b) The number of signatures required for a petition to consolidate shall equal twenty percent (20%) of the total number of persons voting in the last presidential election. All petitions shall be certified as sufficient by the county clerk. All petitions shall include the printed name, address, age, and signature of each registered voter signing the petition, and the date of the signature. The petition shall not be circulated for a period of time exceeding one hundred twenty (120) days. If the petition exceeds the one hundred twenty (120) day time frame it shall become void. Any petition containing irregularities shall be returned to the petitioner, who shall have ten (10) days to correct the irregularities and resubmit the petition to the county judge/executive for final certification.

(c) Upon receipt of a certified petition or the final adoption of an ordinance stating the intent of a county to consolidate with another county or counties, the county judge/executive in the initiating county shall within ten (10) working days notify by certified mail, return receipt requested, the fiscal courts of the adjoining counties proposed for consolidation and shall notify the residents of those counties by legal public notice of the action taken in the initiating county. If no action is taken within one hundred twenty (120) days from the receipt of the certified letter to present a petition or to enact an ordinance in the adjoining counties which are proposed to be consolidated as provided in paragraphs (a) and (b) of this subsection, the actions in the initiating county shall be considered void.

(3) All ordinances relating to county consolidation shall be adopted in accordance with the provisions of KRS 67.076, 67.077, 67.855, 67A.070, and 67C.103. Upon enactment, the ordinances shall be published in accordance with the provisions of KRS Chapter 424.

(4) (a) If, within one hundred twenty (120) days of the public notice in an adjoining county proposed for consolidation, a petition is received or an ordinance is enacted stating the intent of the county to consolidate with a county or counties as provided in subsection (2)(a) and (2)(b) of this section, a special election shall be held within ninety (90) days on the same day within each county, to determine the will of the people in each separate county.

(b) The county judge/executive shall in each county proposed for consolidation deliver a certified copy of the enacted ordinance or the final certified petition to the county clerk of the county in which the election is to be held. The county clerk in each county proposed for consolidation shall prepare the following question to be placed before the voters: "Are you in favor of being consolidated with the county (or counties) of ...., which will form a new county?" The advertisement of the election by the sheriff shall be in accordance with KRS 242.040. The advertisement shall include the date of the election and the question to be voted upon.

(c) If a simple majority of those persons voting in each county vote in favor of the consolidation, the counties shall become consolidated. If less than a simple majority of those persons voting in each county favor the consolidation, then the issue of consolidation will become void for all purposes in each county.

(5) All general costs associated with the conduct of special elections relating to a proposed consolidation of counties shall be paid by the state. The publication costs for legal public notice of the election and the costs for legal public notices in adjoining counties proposed for consolidation as required in subsection (2)(c) of this section shall be considered a general cost of the election, but no other advertising shall be paid for by state funds.

(6) Upon certification of an affirmative action to consolidate counties, no further action shall be made to alter the territory

of the newly consolidated county for a period of ten (10) years.

SECTION 3. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The fiscal court of any new county created by the consolidation of two (2) or more counties shall not take any legal action until the expiration of the current terms of office of all elected county officials holding office when the counties were consolidated and the election and certification of the officials of the newly consolidated county. The officers of the newly consolidated county shall be elected and take office in the same manner and at the same time as other elected county officials.

SECTION 4. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Upon certification of an election to consolidate counties, the county judge/executive of each county shall, within thirty (30) days after the certification, appoint six (6) voters from the county to serve as members of a transition committee for the purpose of dividing the area of the new county into districts for the election of members of the fiscal court for the new county. The appointments for each county shall be made so that they reflect as closely as possible the ratio of each of the two (2) major political parties to the total county population. The committee members representing each county shall begin meeting jointly within fifteen (15) days after their appointment and proceed to divide the area of the new county into not less than three (3) nor more than eight (8) magisterial districts, each to be as nearly equal in area and population as possible. The committee shall also select not fewer than two (2) names nor more than five (5) names for the new county, which shall be submitted to the voters for their selection at the same time as the election for the members of the new fiscal court. The report of the transition committee shall be filed with the county judge/executive of each consolidating county not less than sixty (60) days after the appointment of the members. The members of the transition committee shall select a chairman from among themselves to preside over the meetings of the group.

(2) If, at the expiration of sixty (60) days after the initial meeting of the transition committee, a majority of the members have failed to agree upon the selection of the names for the proposed county or failed to agree upon a plan to divide the new county into magisterial districts, the Governor shall appoint an additional person to act as chairman of the committee. The Governor's appointee shall not vote on any question except in the case of a tie vote, to aid in the selection of the potential new county names, the formation of magisterial districts, or any other relevant issue for the ballot. The report of the committee shall be filed with the county judge/executive of each county not less than thirty (30) days after appointment of the new chairman.

SECTION 5. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) All taxes in effect in each county in the fiscal year immediately preceding the beginning of the term of the new fiscal court shall remain in effect until action is taken to change or remove them by the new fiscal court.

(2) The territory formerly embraced within each of the previously existing counties is hereby made into a separate special taxing district for the repayment of financial obligations and debts of the previously existing counties. The new fiscal court has the power to levy and collect taxes in these special taxing districts in addition to its other powers to levy and collect taxes. The separate debt of each special taxing district shall be a first lien on the territory formerly embraced within that previously existing county. The money collected as taxes for each of the special taxing districts shall be kept separate and shall first be used as payment of the debts of the previously existing county that formerly embraced the territory of that specific taxing district. The special taxing district shall cease to exist upon repayment of all debts and financial obligations of the previously existing county.

(3) Any surplus funds in existence in a county on the date of a consolidation shall be spent in the territory of the previously existing county in which the surplus funds were raised. The surplus funds shall first be expended towards the regular repayment of any financial obligations or debts of the territory formerly embraced within each of the previously existing counties that were to be paid in full within five (5) years. The schedule for the repayment of debts or financial obligations that were contracted for a period of more than five (5) years shall be at the discretion of the newly formed county. Any surplus funds remaining after the payment of obligations and debts shall be spent by the fiscal court of the newly formed county in the territory of the previously existing county from which the taxes were collected.

SECTION 6. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

Voters shall select the county seat of the newly consolidated county from one (1) of the previously existing county seats. The question on the selection of the new county seat shall be submitted to the voters at the same time as the election for the members of the new fiscal court and the selection of the name for the newly consolidated county. The county seat shall remain at this location for a period of no less than ten (10) years, after which time the citizens may remove the county seat only as provided by KRS 67.020. The remaining county government buildings in the county seats of the previously existing counties shall be maintained as branch offices of the newly formed counties for a period of no less than ten (10) years, after which the fiscal court may make a decision as to their necessity and use.

SECTION 7. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

Where the previously existing counties were in the same representative, senatorial, judicial, or congressional district or districts, or in the same judicial circuit or circuits, the newly consolidated county shall remain in the same district or circuit. Where the previously existing counties were not in the same judicial circuit or judicial district, the newly consolidated county shall be placed in the same circuit or district in which the previously existing county which had the largest population was located. If each of the previously existing counties was a separate district, the new county shall be divided into such districts, each district to be contiguous with the boundary lines of the previously existing counties.

SECTION 8. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The Department for Local Government shall promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A to guarantee the awarding of preference points on applications for Small Cities Community Development Block Grant funds made by newly consolidated counties. The Department for Local Government shall provide technical and advisory assistance to newly consolidated counties. Funds awarded under this provision shall be expended in compliance with all state and federal guidelines governing those funds.

Section 9. The following KRS sections are repealed:

67.190 Petition for consolidation of counties -- Notice.

67.200 New petition when petition not filed in time.

67.210 Order for election on question of consolidation.

67.220 Advertisement of election.

67.230 General election laws to apply.

67.240 Certification of results of election -- Appointment of commissions to lay off justices' districts and select choice of names and county seats.

67.250 Report of commissions -- Election of officers for new county.

67.260 Election to choose name and county seat of new county -- Period between elections on consolidation.

67.270 Debts of old counties -- Separate taxes to pay.

67.280 Assignment of new county to various election districts.

67.290 Records and property of old counties.

67.310 Disposition of county administrative agencies.

HB 325, AN ACT relating to boards and commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.070 is amended to read as follows:

(1) For the purpose of this section, "minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented on state boards and commissions.

(2) Except as otherwise expressly provided by law, the members of each administrative board or commission shall be citizens of Kentucky appointed by the Governor from the state at large on the basis of their interests in public affairs, their good judgment, and their knowledge and ability in the field of action of the department for which appointed, with a view to providing diversity of interests and points of view in the membership and without regard to their political or religious opinions or affiliations.

(3) Where appointments to administrative boards and commissions are made from lists submitted to him, the Governor may reject the list and require that other lists be submitted. Notwithstanding any provision to the contrary, in the event the current membership of a board or commission reflects a proportion of the minority group less than the proportion of the minority group in the total population of the Commonwealth, then the Governor may appoint a member of the minority group even if the list of nominees for a vacancy does not include a member of the minority group.

(4) Before entering upon the duties of their office, all members of administrative boards and commissions shall take the oath of office prescribed by Section 228 of the Constitution.

(5) When a board, commission, or similar administrative body is established and no provision is made for compensation of members, members shall serve without pay, but may receive reimbursement for their actual and necessary expenses.

(6) Notwithstanding any provision to the contrary, a term of appointment to any board or commission shall automatically renew thirty (30) days after the term expires, unless within that period the Governor reappoints the person holding the term or appoints a successor.

The Committee Substitute to **HB 325** is as follows:

HB 325, AN ACT relating to boards and commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.070 is amended to read as follows:

(1) For the purpose of this section, "minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented on state boards and commissions.

(2) Except as otherwise expressly provided by law, the members of each administrative board or commission shall be citizens

of Kentucky appointed by the Governor from the state at large on the basis of their interests in public affairs, their good judgment, and their knowledge and ability in the field of action of the department for which appointed, with a view to providing diversity of interests and points of view in the membership and without regard to their political or religious opinions or affiliations.

(3) Where appointments to administrative boards and commissions are made from lists submitted to him, the Governor may reject the list and require that other lists be submitted. Notwithstanding any provision to the contrary, in the event the current membership of a board or commission reflects a proportion of the minority group less than the proportion of the minority group in the total population of the Commonwealth, then the Governor may appoint a member of the minority group even if the list of nominees for a vacancy does not include a member of the minority group.

(4) Before entering upon the duties of their office, all members of administrative boards and commissions shall take the oath of office prescribed by Section 228 of the Constitution.

(5) When a board, commission, or similar administrative body is established and no provision is made for compensation of members, members shall serve without pay, but may receive reimbursement for their actual and necessary expenses.

(6) Notwithstanding any provision to the contrary, a term of appointment to any board or commission shall automatically renew sixty (60) days after the term expires, unless within that period the Governor reappoints the person holding the term or appoints a successor.

HB 340, AN ACT relating to the state health insurance group.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) (a) There is hereby established a dependent coverage contribution fund which shall consist of amounts remaining in flexible spending accounts of state employees and school board employees at the end of a plan year after all reimbursements have been processed; unexpended agency funds at the end of the fiscal year which were budgeted for the purpose of providing health insurance for employees under KRS 18A.225; and other amounts designated or appropriated by the General Assembly.

(b) All moneys in the fund shall not lapse but shall be deemed trust and agency funds, including interest thereon. Any amount not expended in a plan year shall be carried over for providing a monthly contribution for dependent coverage in the following plan year.

(2) The fund shall be maintained by the Finance and Administration Cabinet solely for the purpose of providing a monthly contribution to reduce the cost of dependent coverage for persons regularly employed by any department, board, agency, branch of state government, or local school district that receives a state appropriation for the employer's contribution for active employees' health insurance.

(3) The secretary of the Finance and Administration Cabinet shall determine the total amount in the fund following the end of the fiscal year. Prior to the annual open enrollment period for insurance, the secretary of the Finance and Administration Cabinet, in consultation with the secretary of the Personnel Cabinet, shall determine if sufficient funds exist to provide a state contribution for dependent coverage for the following plan year and the amount of the contribution.

(4) Once each quarter following the annual open enrollment, the Finance and Administration Cabinet shall allocate the amount needed to pay the state contribution for dependent coverage to the agencies or employers responsible for paying health insurance premiums to the insurance carriers. Allocations for local school districts shall be transferred to the Department of Education which shall forward the funds to the school districts.

(5) The amounts transferred to the fund each year, the total amount in the fund, the amount of the state contribution for dependent coverage, the number of employees receiving the state contribution, and recommendations concerning administration of the fund shall be included in the annual report of the Kentucky Group Health Insurance Board.

Section 2. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "employee" for purposes of this section means:

1. Any person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state government; or by a public postsecondary educational institution; or by any city, urban-county, charter county, county, or consolidated local government, whose legislative body has opted to participate in the state-sponsored health insurance program pursuant to KRS 79.080; and who is either a

contributing member to any one (1) of the retirement systems administered by the state, including but not limited to the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan; or is receiving a contractual contribution from the state toward a retirement plan; or, in the case of a public postsecondary education institution, is an individual participating in an optional retirement plan authorized by KRS 161.567;

2. Any certified or classified employee of a local board of education;

3. Any person who is a present or future recipient of a retirement allowance from the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, the Judicial Retirement Plan, or the Kentucky Community and Technical College System's optional retirement plan authorized by KRS 161.567, except that a person who is receiving a retirement allowance and who is age sixty-five (65) or older shall not be included, with the exception of persons covered under KRS 61.702(4)(c), unless he or she is actively employed pursuant to subparagraph 1. of this paragraph; and

4. Any eligible dependents and beneficiaries of participating employees and retirees who are entitled to participate in the state-sponsored health insurance program.

(2) (a) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more health insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health care coverage, that may include but not be limited to health maintenance organization (HMO), preferred provider organization (PPO), point of service (POS), and exclusive provider organization (EPO) benefit plans encompassing all or any class or classes of employees. With the exception of employers governed by the provisions of KRS Chapters 16, 18A, and 151B, all employers of any class of employees or former employees shall enter into a contract with the Personnel Cabinet prior to including that group in the state health insurance group. The contracts shall include but not be limited to designating the entity responsible for filing any federal forms, adoption of policies required for proper plan administration, acceptance of the contractual provisions with health insurance carriers or third-party administrators, and adoption of the payment and reimbursement methods necessary for efficient administration of the health insurance program. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994, and shall include a mail-order drug option as provided in subsection (14) of this section. All employees and other persons for whom the health care coverage is provided or made available shall annually be given an option to elect health care coverage through a self-funded plan offered by the Commonwealth or, if a self-funded plan is not available, from a list of coverage options determined by the competitive bid process under the provisions of KRS 45A.080, 45A.085, and 45A.090 and made available during annual open enrollment.

(b) The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws.

(c) Any carrier bidding to offer health care coverage to employees shall agree to provide coverage to all members of the state group, including active employees and retirees and their eligible covered dependents and beneficiaries, within the county or counties specified in its bid. Except as provided in subsection (19) of this section, any carrier bidding to offer health care coverage to employees shall also agree to rate all employees as a single entity, except for those retirees whose former employers insure their active employees outside the state-sponsored health insurance program.

(d) Any carrier bidding to offer health care coverage to employees shall agree to provide enrollment, claims, and utilization data to the Commonwealth in a format specified by the Personnel Cabinet with the understanding that the data shall be owned by the Commonwealth; to provide data in an electronic form and within a time frame specified by the Personnel Cabinet; and to be subject to penalties for noncompliance with data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual employee; however, confidentiality assertions shall not relieve a carrier from the requirement of providing stipulated data to the Commonwealth.

(e) The Personnel Cabinet shall develop the necessary techniques and capabilities for timely analysis of data received from carriers and, to the extent possible, provide in the request-for-proposal specifics relating to data requirements, electronic reporting, and penalties for noncompliance. The Commonwealth shall own the enrollment, claims, and utilization data provided by each carrier and shall develop methods to protect the confidentiality of the individual. The Personnel Cabinet shall include in the October annual report submitted pursuant to the provisions of KRS 18A.226 to the Governor, the General Assembly, and the Chief Justice of the Supreme Court, an analysis of the financial stability of the program, which shall include but not be limited to loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management, and statutorily required mandates. If state self-insurance was available as a carrier option, the report also shall provide a detailed financial analysis of the self-insurance fund including, but not limited to, loss ratios, reserves, and reinsurance agreements.

(f) If any agency participating in the state-sponsored employee health insurance program for its active employees terminates participation and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, then neither the agency nor the employees shall receive the state-funded contribution after termination from the state-sponsored employee health insurance program.

(g) Any funds in flexible spending accounts that remain after all reimbursements have been processed shall be transferred to the credit of the ***dependent coverage contribution fund created under Section 1 of this Act***[~~state-sponsored health insurance plan's appropriation account~~].

(h) Each entity participating in the state-sponsored health insurance program shall provide an amount at least equal to the state contribution rate for the employer portion of the health insurance premium. For any participating entity that used the state payroll system, the employer contribution amount shall be equal to but not greater than the state contribution rate.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, may procure from one (1) or more dental insurance companies, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under Subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under Subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of employees. All employees for whom the dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by any department, board, agency, public postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government; or

(c) Partly from each, except that any premium due for health care coverage or dental coverage, if any, in excess of the premium amount contributed by any department, board, agency, postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government for any other health care coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a managed health care plan or of a prepaid dental plan, under which he has elected coverage, into either the service area of another managed health care plan or prepaid dental plan or into an area of the Commonwealth not within a managed health care plan service area or prepaid dental plan service area, the employee shall be given an option, at the time of the move or transfer, to change his or her coverage to another health care plan or dental plan.

(6) No payment of premium by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall be considered a proper cost of administration.

(7) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, and continuation of insurance or coverage after retirement.

(8) Group rates under this section shall be made available to the disabled child of an employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(9) The health care contract or contracts for employees shall be entered into for a period of not less than one (1) year.

(10) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the state-sponsored health insurance program for employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, two (2) members representing the Kentucky Teachers' Retirement System, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees, two (2) members from a list of five (5) names submitted by the Kentucky Association of Counties, two (2) members from a list of five (5) names submitted by the Kentucky League of Cities, and two (2) members from a list of names consisting of five (5) names submitted by each state employee organization that has two thousand (2,000) or more members on state payroll deduction. The advisory committee shall be appointed in January of each year and shall meet quarterly.

(11) Notwithstanding any other provision of law to the contrary, the policy or policies provided to employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of employees or their dependents.

(12) Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change through the established appeal procedures approved by the Department of Insurance, if the physician supervising the treatment certifies that the change is not in the best interests of the patient.

(13) Any employee who is eligible for and elects to participate in the state health insurance program as a retiree, or the spouse or beneficiary of a retiree, under any one (1) of the state-sponsored retirement systems shall not be eligible to receive the state health insurance contribution toward health care coverage as a result of any other employment for which there is a public employer contribution. This does not preclude a retiree and an active employee spouse from using both contributions to the extent needed for purchase of one (1) state sponsored health insurance policy for that plan year.

(14) (a) The policies of health insurance coverage procured under subsection (2) of this section shall include a mail-order drug option for maintenance drugs for state employees. Maintenance drugs may be dispensed by mail order in accordance with Kentucky law.

(b) A health insurer shall not discriminate against any retail pharmacy located within the geographic coverage area of the health benefit plan and that meets the terms and conditions for participation established by the insurer, including price, dispensing fee, and copay requirements of a mail-order option. The retail pharmacy shall not be required to dispense by mail.

(c) The mail-order option shall not permit the dispensing of a controlled substance classified in Schedule II.

(15) The policy or policies provided to state employees or their dependents pursuant to this section shall provide coverage for obtaining a hearing aid and acquiring hearing aid-related services for insured individuals under eighteen (18) years of age, subject to a cap of one thousand four hundred dollars ($1,400) every thirty-six (36) months.

(16) If a state employee's residence and place of employment are in the same county, and if the hospital located within that county does not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services, and magnetic resonance imaging services, the employee may select a plan available in a contiguous county that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.

(17) If a state employee's residence and place of employment are each located in counties in which the hospitals do not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services, and magnetic resonance imaging services, the employee may select a plan available in a county contiguous to the county of residence that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.

(18) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and in the best interests of the state group to allow any carrier bidding to offer health care coverage under this section to submit bids that may vary county by county or by larger geographic areas.

(19) Notwithstanding any other provision of this section, the bid for proposals for health insurance coverage for calendar year 2004 shall include a bid scenario that reflects the statewide rating structure provided in calendar year 2003 and a bid scenario that allows for a regional rating structure that allows carriers to submit bids that may vary by region for a given product offering as described in this subsection:

(a) The regional rating bid scenario shall not include a request for bid on a statewide option;

(b) The Personnel Cabinet shall divide the state into geographical regions which shall be the same as the partnership regions designated by the Department for Medicaid Services for purposes of the Kentucky Health Care Partnership Program established pursuant to 907 KAR 1:705;

(c) The request for proposal shall require a carrier's bid to include every county within the region or regions for which the bid is submitted and include but not be restricted to a preferred provider organization (PPO) option;

(d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the carrier all of the counties included in its bid within the region. If the Personnel Cabinet deems the bids submitted in accordance with this subsection to be in the best interests of state employees in a region, the cabinet may award the contract for that region to no more than two (2) carriers; and

(e) Nothing in this subsection shall prohibit the Personnel Cabinet from including other requirements or criteria in the request for proposal.

Representative Damron moved that the rules be suspended to act on a Resolution. Agreed.

Representative Damron moved the adoption of the following **HR 108**:

HR 108, A RESOLUTION adjourning the House of Representatives in honor of the Grand Lodge of Kentucky.

WHEREAS, the Masons are the largest and oldest fraternity worldwide, whose recorded history dates back nearly 1,000 years, and whose fellowship was founded on friendship, charity, brotherly love, and benevolence; and

WHEREAS, many of our founding fathers were Masons, including such notable statesmen as George Washington, Benjamin Franklin, and Henry Clay -- men who were instrumental in the establishment and development of our great nation; and

WHEREAS, most of the signers of the Declaration of Independence and the Constitution of the United States were Masons, and the significance of their allegiance to this great nation is unparalleled and will have lasting impact; and

WHEREAS, the Masons are noted for being great arbitrators and for their unbounded loyalty to God, to their country, and to their fellowman, and their humanitarian contributions have given them global distinction; and

WHEREAS, upon motion of Green Clay to the Virginia Lodge #25 in the year 1788, it was granted that the members could hold a regular lodge of Freemasons in the town of Lexington, establishing the first lodge west of the Allegheny Mountains, and now known as Lexington Lodge #1; and

WHEREAS, in 1800, permission was given for severance from Kentucky, whereby the Grand Lodge of Kentucky was established, beginning the heritage of service and devotion to the ideals of Freemasonry recognized and honored by those who serve as Masons in the Commonwealth today; and

WHEREAS, the Grand Lodge of Kentucky now celebrates over 200 years of friendship, charity, and brotherly love;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives is proud and honored to recognize members of the Grand Lodge of Kentucky for their genuine love and concern for humanity. They are held in the highest esteem for their dedication to worthy causes without prejudice to our judgment of their fellowman.

Section 2. When the House of Representatives adjourns this day, it does so in honor of the Grand Lodge of Kentucky.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Robert Damron for presentation to the Grand Lodge of Kentucky.

There being no objection **HR 108** was adopted.

On the roll call for co-sponsors the vote was: **Yeas 88.** (See February 3, 2004, roll call to show co-sponsors on **HR 108**-Appendix.)

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 90, 260,** and **106** have been posted for passage in the Regular Orders of the Day for February 4, 2004.

Orders of the Day

Representative Rasche moved to suspend the rules to act on a Resolution. Agreed.

Representative Rasche moved the adoption of the following **HR 100**:

HR 100, A RESOLUTION recognizing the importance of providing appropriate educational opportunities to gifted and talented students and commending the efforts and accomplishments of the Kentucky Association for Gifted Education.

WHEREAS, KRS 157.200 defines gifted and talented students as pupils "identified as possessing demonstrated or potential ability to perform at an exceptionally high level in general intellectual aptitude, specific academic aptitude, creative or divergent thinking, psychosocial or leadership skills, or in the visual or performing arts"; and

WHEREAS, the Kentucky Association for Gifted Education is a non-profit volunteer group of parents, teachers, administrators, university faculty, and interested citizens that advocates for appropriate educational opportunities for gifted and talented youth in Kentucky; and

WHEREAS, since 1979, the Kentucky Association for Gifted Education has sought to address the needs of gifted and talented students in Kentucky by encouraging the improvement of educational services for all students, including those who are gifted and talented, offering training to parents and teachers, disseminating information to students, parents, teachers, and the general public, and working to secure permanent state funding and legislation to provide appropriate educational opportunities for gifted and talented students; and

WHEREAS, the gifted and talented children and youth of Kentucky come from all regions, cultures, racial and ethnic groups, and socioeconomic backgrounds; and

WHEREAS, the manifestation of the gifts and talents of these children and youth is as diverse as the backgrounds from which they come; and

WHEREAS, gifted and talented students have attributes and capacities that must be nurtured, and unique educational needs that must be addressed in order for the full expression of their abilities to be brought forth; and

WHEREAS, President John F. Kennedy asked us to "think of education as the means of developing our greatest abilities, because in each of us there is a private hope and dream which, fulfilled, can be translated into benefit for everyone and greater strength for our nation"; and

WHEREAS, it is the civil and moral responsibility of the system of common schools of the Commonwealth to provide all children the opportunity to develop their gifts and talents to the greatest extent possible, for the benefit of self and of society;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body recognizes the importance of providing appropriate educational opportunities for all students, including gifted and talented students.

Section 2. This honorable body salutes the efforts of the Kentucky Association for Gifted Education to improve the educational opportunities for gifted and talented students and wishes its members well as they prepare for the twenty-fourth annual conference of the Kentucky Association for Gifted Education to be held in Lexington, Kentucky on February 17-19, 2004.

Section 3. All components of the Kentucky education system, including the Kentucky General Assembly, Kentucky Board of Education, the Kentucky Department of Education, public and nonpublic postsecondary education institutions, public school districts, local boards of education, public and nonpublic schools, and teachers are encouraged to provide sufficient resources and develop effective educational strategies to ensure that gifted and talented students are identified and receive the educational opportunities appropriate to their special gifts and needs.

Section 4. The Clerk of the House of Representatives is hereby directed to send a copy of this Resolution to the Kentucky Association for Gifted Education, P.O. Box 9610, Bowling Green, Kentucky 42102-9610.

There being no objection, **HR 100** was adopted.

HB 74 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Graham moved that **HB 74** be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See February 3, 2004, roll call on **HB 74** - Appendix.)

HB 74 was passed and the title agreed to.

Representative Graham moved that the vote by which **HB 74** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 306, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved the adoption of the Committee Substitute to **HB 306**. Agreed.

Representative A. Arnold moved that **HB 306**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See February 3, 2004, roll call on **HB 306** - Appendix.)

HB 306, by way of Committee Substitute, was passed and the title agreed to.

Representative A. Arnold moved that the vote by which **HB 306**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 322 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 322** be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See February 3, 2004, roll call on **HB 322** - Appendix.)

HB 322 was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 322** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 361 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Denham moved that **HB 361** be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See February 3, 2004, roll call on **HB 361** - Appendix.)

HB 361 was passed and the title agreed to.

Representative Denham moved that the vote by which **HB 361** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 350, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Miller moved the adoption of Floor Amendment No. 1 to **HB 350**. Agreed.

Representative Riggs moved the adoption of Floor Amendment No. 2 to **HB 350**. Agreed.

Representative Miller moved that **HB 350**, as amended, be passed.

On the roll call the vote was: **Yeas 88, Nays 2**. (See February 3, 2004, roll call on **HB 350** - Appendix.)

HB 350, as amended, was passed and the title agreed to.

Representative Miller moved that the vote by which **HB 350**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 78 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved that **HCR 78** be adopted.

On the roll call the vote was: **Yeas 93, Nays 0**. (See February 3, 2004, roll call on **HCR 78** - Appendix.)

HCR 78 was adopted.

Representative L. Clark moved that the vote by which **HCR 78** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 8, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved the adoption of the Committee Substitute to **HB 8**. Agreed.

Representative Yonts moved that **HB 8**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 90, Nays 1.** (See February 3, 2004, roll call on **HB 8** - Appendix.)

HB 8, by way of Committee Substitute, was passed and the title agreed to.

Representative Yonts moved that the vote by which **HB 8**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins moved to waive the posting requirement on **HB 432**. Agreed.

Representative Bruce moved to suspend the rules to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 115, by Representative Bruce: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Ralph W. Penick.

Motions, Petitions, Communications (Continued)

Representative Bruce moved the adoption of the following **HR 115**:

HR 115, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Ralph W. Penick.

With deepest respect and admiration, we pay homage and tribute to Ralph W. Penick, and we pause in silent reverence for his soul.

WHEREAS, Ralph W. Penick was born on August 27, 1937, a native of Christian County, Kentucky, and he traversed these earthly bounds on January 23, 2004; and

WHEREAS, Ralph W. Penick was the loving son of the late Leslie Lynn Penick and Mary Rose Penick; he was the devoted husband of Wanna Jo Penick; he was the loving father of a daughter, Cydonna Vinson, and a son, Leslie Lee Penick, both of Hopkinsville; and he was the proud grandfather of two grandchildren; and

WHEREAS, Ralph W. Penick was an esteemed member of the Christian County community, where he was a community leader, an outstanding farmer, and a member of the Kentucky Farm Bureau; he was retired from the United States Postal Service as a rural letter carrier and he was a member of the National Letter Carriers Association; and

WHEREAS, the passing of Ralph W. Penick has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Ralph W. Penick, and extends to his family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Ralph W. Penick.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Wanna Jo Penick, 6920 Butler Road, Hopkinsville, Kentucky 42240.

There being no objection **HR 115** was adopted.

Representative Thomas moved the adoption of the following **Legislative Citation No. 19**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes the participants in the Kentucky Association for Gifted Education Legislative Day 2004 at the Capitol upon having traveled from their respective communities from throughout the Commonwealth to join with fellow members of Kentucky's Gifted and Talented Programs in order to spend the day at the Capitol during the 2004 Regular Session of the Kentucky General Assembly in an earnest effort to increase their understanding of the complex tasks rendered by Kentucky's lawmakers; to develop an appreciation of the ethical use of influence and decision-making; and, to gain a greater insight into effective leadership techniques related to possible societal roles. As participants of the worthwhile Gifted and Talented Program, which seeks to provide gifted students with learning opportunities that extend beyond a standard educational curriculum, these dynamic young scholars have demonstrated their commitment to supporting educational excellence, bringing great honor and pride to this Commonwealth by their consistently superior achievement in the academic arena. Inasmuch as these phenomenal young citizens have themselves brought new insights to this body through their engagement of dialogues with various legislators and by reflecting the vast reservoir of wisdom and leadership potential that lay within Kentucky's young people, the members of this august body are delighted to join Speaker Jody Richards in welcoming these remarkable young students to the chambers of the Kentucky House of Representatives and in extending to each best wishes for continued monuments of success and good fortune. Done in Frankfort, Kentucky, this third day of February, in the year two thousand and four.

Legislative Citation No. 19 was adopted without objection.

Representative Burch moved to suspend the rules to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 118, by Representatives Burch, Jenkins, Meeks, Miller, P. Clark, L. Clark, Wayne, De. Butler, and Riggs: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Blanche R. Mahoney.

Motions, Petitions, and Communications (Continued)

Representative Burch moved the adoption of the following **HR 118**:

HR 118, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Blanche R. Mahoney.

With deepest respect and admiration, we pay homage and tribute to Blanche R. Mahoney, and we pause in silent reverence for her soul.

WHEREAS, Blanche R. Mahoney was born on January 26, 1919, a native of Gary, Indiana, and longtime resident of Louisville, Jefferson County, Kentucky, and she traversed these earthly bounds on February 1, 2004; and

WHEREAS, Blanche R. Mahoney was the loving daughter of the late Marcell Most and Hazel Reddick; she was the devoted wife of William B. Mahoney; she was the loving mother of a daughter, Patricia Wrocklage; and she was the proud grandmother of a granddaughter and the proud great-grandmother of five great-grandchildren; and she also leaves behind a loving brother, George Hedges, and a loving sister, Margaret Anderson; and

WHEREAS, Blanche R. Mahoney was an esteemed member of the Jefferson County community, and an active and involved citizen; she was active in the Louisville Urban League and the Kentucky Civil Liberties Union; she was the former director of the California Community Center and a former youth program director of Plymouth Settlement House; she served in the Peace Corps; and she was appointed by former President Lyndon B. Johnson as first coordinator of the Louisville and Jefferson County Head Start Program; and

WHEREAS, Blanche R. Mahoney was a faithful member of the Democratic Party, and her leadership abilities included serving two terms as Senate Clerk, the first woman to serve in that position; she was a retired campaign manager for former Senator Dee Huddleston; she successfully coordinated Wendell Ford's campaign for Governor, and continued working with him after he was elected to the United States Senate in 1974; she retired in 1987, after 12 years as Senator Ford's district representative to a 39 county area surrounding Louisville; after her retirement, she continued to do political consulting; and she volunteered at the Speed Art Museum, where she served ten years as a docent; and

WHEREAS, Blanche R. Mahoney will best be remembered and admired for her dedication to the Democratic party, and as a leader among women in Kentucky; and the passion, dedication, intelligence, and social consciousness that she brought to this Commonwealth will never be forgotten, and her influence will continue through all the lives she touched; and

WHEREAS, the passing of Blanche R. Mahoney has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Blanche R. Mahoney, and extends to her family and many friends its most heartfelt sympathy.

Section 2. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Blanche R. Mahoney, and extends to her family and many friends its most heartfelt sympathy.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. William B. Mahoney, 2212 Tucker Station Road, Louisville, Kentucky 40299.

There being no objection, **HR 118** was adopted.

On the roll call for co-sponsors the vote was: **Yeas 80**. (See February 3, 2004, roll call to show co-sponsors on **HR 118**-Appendix.)

Representative Thomas moved the adoption of the following **Legislative Citation No. 20**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory and honor of John Randall Capps of Goodlettsville, Tennessee, and joins with Speaker Jody Richards in expressing deepest sympathy to the Capps Family and all who share in the profound loss on the passing of this esteemed citizen. The son of Dr. Randall and Joan Gray Capps, he is survived by his parents; sister, Jill Robbi Capps; uncle, Wendell Capps; several great aunts, uncles, and cousins; and, a host of other family members, friends and loved ones. A graduate of Bowling Green High School who had studied at Tallahassee Community College, Volunteer State College, and Western Kentucky University, Mr. Capps was a self-employed musician; a drummer in the Praise Band at Broadway United Methodist Church; and, a faithful member of the State Street United Methodist Church. This esteemed citizen is remembered on this day for the many and generous contributions he made to his family and community. John Randall Capps will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, Kentucky, this third day of February, in the year two thousand and four.

Legislative Citation No. 20 was adopted without objection.

Representative Adkins moved that the rules be suspended for introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 437, by Representative Weaver: AN ACT relating to barbering.

HB 438, by Representative Vincent: AN ACT relating to the sale or other disposition of city or county property.

HB 439, by Representative Stein: AN ACT relating to the assessment of students attending nonpublic schools receiving public funds.

HB 440, by Representative Feeley: AN ACT relating to subdivision regulations.

HB 441, by Representative McKee: AN ACT relating to licensing veterinarians.

HB 442, by Representatives Webb and Rand: AN ACT relating to land surveyors.

HB 443, by Representatives Webb and Rand: AN ACT proposing an amendment to Section 100 of the Constitution of Kentucky relating to the office of County Surveyor.

HB 444, by Representative Denham: AN ACT relating to agritourism.

HB 445, by Representatives Geveden, Vincent, and Lindsay: AN ACT relating to the protection of Social Security number disclosures in domestic relations cases.

HB 446, by Representatives Geveden, Cherry, and Wilkey: AN ACT relating to political advertising.

HB 447, by Representative Wilkey: AN ACT relating to the relocation of utilities in conjunction with a highway construction project.

HB 448, by Representative Webb: AN ACT relating to health insurance.

HB 449, by Representative Barrows: AN ACT relating to fees.

HB 450, by Representatives Wilkey, Marzian, and Stein: AN ACT relating to medical malpractice and making an appropriation.

HB 451, by Representatives Simpson and Callahan: AN ACT relating to tax credits for historic property rehabilitation and construction.

HCR 114, by Representative Denham: A CONCURRENT RESOLUTION urging the Division of Conservation to give greater consideration to unsuccessful previous applicants for Soil Erosion and Water Quality Cost Share funds.

HJR 116, by Representative Coleman: A JOINT RESOLUTION memorializing former Mercer County Judge/Executive Charles McGinnis and designating a portion of US 68 in Mercer County as the "Charles H. McGinnis Memorial Highway."

HR 117, by Representatives Moberly, Napier, and Pasley: A RESOLUTION memorializing Nannie Lee Sallee Lackey and adjourning the House of Representatives in her honor.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Transportation: **HJR 7, 11, 40, 43, 54, 91, HB 357, 71, HJR 9, 19, 42, 46, 82, HB 85, 172**

Motions, Petitions, and Communications (Continued)

Representative Lindsay moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Lindsay moved that he be recorded as voting "yea" on **HB 22, 195,** and **319**. Agreed.

Representative Meeks moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Meeks moved that he be recorded as voting "yea" on **HB 8**. Agreed.

Representative Couch moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Couch moved that his vote be changed from "nay" to "yea" on **HB 8**. Agreed.

Representative Callahan moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Callahan moved that he be recorded as voting "yea" on **HB 8**. Agreed.

Representative J. Adams moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Adams moved that he be recorded as voting "yea" on **HB 350**. Agreed.

Representative Burch moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Burch moved that he be recorded as voting "yea" on **HB 350**. Agreed.

Representative P. Clark moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative P. Clark moved that he be recorded as voting "yea" on **HB 283, 176, 37, 263, 258, 273, 189, 269,** and **HCR 66**. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 11, Representative Embry

HB 100, Representative Vincent

HB 108, Representatives Marcotte and Walton

HB 135, Representative Pullin

HB 226, Representatives L. Clark and Marcotte

HB 299, Representative Edmonds

HB 340, Representative L. Clark

HB 372, Representatives Palumbo and Horlander

HB 404, Representative R. Adams and Thomas

HB 409, Representative Wilkey

HB 410, Representative Wilkey

HB 429, Representative Edmonds

HB 450, Representatives Thomas, Geveden, Richards, Jenkins, Yonts, Hoffman, Miller, Moberly, Pasley, J. Thompson, Wayne, Barrows, Webb, Westrom, and L. Clark

HCR 8, Representative Palumbo

HCR 78, Representative Hoffman

HR 108, Representative Crenshaw

Announcements

The following meetings were announced:

Legislative Research Commission upon adjournment, Room 131

Committee on Tourism Development and Energy: Wednesday, February 4, 2004, 9:00 a.m.

Budget Review Subcommittee on General Government, Finance, and Public Protection: Wednesday, February 4, 2004, 12:00 Noon, Room 125

Budget Review Subcommittee on Human Resources: Wednesday, February 4, 2004, Upon Adjournment, Room 149

Budget Review Subcommittee on Economic Development: 10 minutes upon adjournment, Room 113

Committee on Licensing and Occupations: Canceled, Wednesday, February 4, 2004

Committee on Appropriations and Revenue: Wednesday, February 4, 2004, 10:00 a.m.

Budget Review Subcommittee on Transportation: Canceled, Wednesday, February 4, 2004

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 2:00 p.m., Wednesday, February 4, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 2:00 p.m., Wednesday, February 4, 2004, was adopted by voice vote.

WEDNESDAY, FEBRUARY 4, 2004

TWENTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Robert A. Strode, St. John AME Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Marzian and Nunn.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 3, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Siler and his family were granted floor privileges. Representative Siler was presented with the Republic of Korea War Service Medal.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 441, 444, HCR 114**

Appropriations and Revenue: **HB 451**

Education: **HB 434, 439**

Elections, Constitutional Amendments, and Intergovernmental Relations: **HB 443, 446**

Judiciary: **HB 445, 449**

Licensing & Occupations: **HB 437, 442**

Local Government: **HB 438, 440**

Seniors, Military Affairs, and Public Safety: **HB 435, 436**

State Government: **HB 448, 450**

Transportation: **HB 447, HJR 116**

House Floor: **HR 117**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Judiciary: **HB 409, 410, 390**

Report of Committees

The Committee on Tourism Development and Energy reported **HB 432** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 432, AN ACT relating to the establishment of the Commonwealth of Kentucky Abraham Lincoln Bicentennial Commission.

WHEREAS, Abraham Lincoln, the sixteenth President of the United States, was one of this nation's most outstanding leaders and a native son of this Commonwealth; and

WHEREAS, Abraham Lincoln was born near Hodgenville, Kentucky, on February 12, 1809, to Thomas and Nancy Hanks Lincoln, and rose from humble circumstances to steer this nation through the Civil War, one of the greatest crises of its history;

and

WHEREAS, President Lincoln was instrumental in ending slavery in these United States; and

WHEREAS, in 2009, this nation will celebrate the bicentennial of Abraham Lincoln's birth; and

WHEREAS, the United States Congress has passed legislation to create the Abraham Lincoln Bicentennial Commission to study and recommend suitable federal activities to honor Abraham Lincoln during his bicentennial year; and

WHEREAS, it is appropriate for the Commonwealth of Kentucky to plan and carry out its own bicentennial tributes to Abraham Lincoln, and to coordinate those activities with those of the federal government;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

There is created the Commonwealth of Kentucky Abraham Lincoln Bicentennial Commission, which shall be attached to the Kentucky Historical Society for administrative purposes. The commission shall be composed of twenty (20) members, as follows:

(1) Two (2) members of the House of Representatives, appointed by the Speaker of the House;

(2) Two (2) members of the Senate, appointed by the President of the Senate;

(3) The Secretary of Education, Arts and Humanities Cabinet, or his or her designee;

(4) One (1) member from the Tourism Development Cabinet, appointed by the Secretary of that cabinet;

(5) One (1) member from the Kentucky Historical Society, appointed by the director of that agency;

(6) One (1) member from the Kentucky Heritage Council, appointed by the executive director of that agency;

(7) One (1) member from the Kentucky African American Heritage Commission, appointed by the head of that agency;

(8) One (1) member from the Kentucky Humanities Council, appointed by the executive director of that agency;

(9) One (1) member from the Abraham Lincoln Bicentennial Commission established by the United States Congress, appointed by the concurrence of the chairs of that agency;

(10) The LaRue County Judge Executive, or his designee;

(11) One (1) member from the Abraham Lincoln Birthplace, appointed by the superintendent of that national historic site;

(12) One (1) member from the Abraham Lincoln Museum in Hodgenville, appointed by the president of that agency;

(13) One (1) member from the Mary Todd Lincoln House in Lexington, appointed by the head of that agency;

(14) One (1) member from the Farmington Historic House museum in Louisville, appointed by the head of that agency; and

(15) Four (4) citizen members from the state at large with a demonstrated interest in history and substantial knowledge and appreciation of Abraham Lincoln, appointed by the Governor.

The chair of the commission shall be elected from among the membership by the commission member.

SECTION 2. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

The Commonwealth of Kentucky Abraham Lincoln Bicentennial Commission shall:

(1) Study and recommend activities that may be carried out by the Commonwealth of Kentucky to honor Abraham Lincoln on the occasion of the bicentennial anniversary of his birth;

(2) Educate Kentucky residents and the nation about the life of Abraham Lincoln during the years he resided in and visited the state in which he was born;

(3) Assist local governments and organizations with planning, preparation, and grant applications for bicentennial events and projects;

(4) Coordinate federal, state, and local bicentennial activities occurring in Kentucky;

(5) Plan and implement appropriate events, including celebrations and educational initiatives, to commemorate the bicentennial;

(6) Perform other duties as necessary to highlight Kentucky's role in the life of Abraham Lincoln; and

(7) Seek federal grants and philanthropic support for bicentennial activities.

SECTION 3. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

The Commonwealth of Kentucky Abraham Lincoln Bicentennial Commission shall expire on June 30, 2010.

The Committee on Education reported **HB 36, HB 183,** with Committee Substitute attached thereto, **HB 309,** with Committee Substitute attached thereto, **HB 398,** and **HCR 67,** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 36, AN ACT relating to participation of Head Start teachers in the Kentucky Teachers' Retirement System.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.549 is amended to read as follows:

A member of the Teachers' Retirement System who is in an active contributing status with the system, and who was formerly employed by a Federal Head Start agency, operated under 42 U.S.C. secs. 9831 et seq., which does not participate in a state-administered retirement system, may obtain credit for the period of the member's service in the Head Start program by ***purchasing this service credit under the same conditions that out-of-state service credit may be purchased under KRS 161.515***[~~paying to the Teachers' Retirement System the full actuarial cost of the service credit purchased, as provided in KRS 161.220(22)~~]. The service credit purchased may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). Payment for the service credit purchased may be made in installments in lieu of a lump-sum payment. The payment shall not be picked up, as described in KRS 161.540(2), and the entire payment shall be placed in the teachers' savings fund.

HB 183, AN ACT relating to the Kentucky educational excellence scholarship.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.7879 is amended to read as follows:

(1) Kentucky educational excellence scholarship awards shall be based upon an established base scholarship amount and an eligible high school student's grade point average. The base scholarship amount for students attaining a grade point average of at least 2.5 for the 1998-1999 academic year shall be as follows:

GPA	Amount	GPA	Amount
2.50	$125.00	3.30	$325.00
2.60	$150.00	3.40	$350.00
2.70	$175.00	3.50	$375.00
2.75	$187.00	3.60	$400.00
2.80	$200.00	3.70	$425.00
2.90	$225.00	3.75	$437.00
3.00	$250.00	3.80	$450.00
3.10	$275.00	3.90	$475.00
3.20	$300.00	4.00	$500.00
3.25	$312.00		

The council shall review the base amount of the Kentucky educational excellence scholarship beginning with the 1999-2000 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

(2) (a) The authority shall commit to provide to each eligible high school student the base amount of the Kentucky educational excellence scholarship for each academic year of high school study in the Kentucky educational excellence scholarship curriculum that the high school student has attained at least a 2.5 grade point average*, except as provided in paragraph (b) of this subsection*. The award shall be based upon the eligible high school student's grade point average at the close of each academic year. An award attributable to a past academic year shall not be increased after the award has been earned by an eligible high school student, regardless of any subsequent increases made to the base amount of the Kentucky educational excellence scholarship through the promulgation of an administrative regulation by the council.

(b) *For each eligible high student who graduates from high school in three (3) academic years or less, the authority shall commit to provide:*

1. The base amount of the Kentucky educational excellence scholarship for each academic year of high school study in the Kentucky educational excellence scholarship curriculum that the high school student has attained at least a 2.5 grade point average; and

2. An additional amount for the student's cumulative high school grade point average for courses in the Kentucky educational excellence scholarship curriculum, using the scale and procedure set forth in subsection (1) of this section.

(c) Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874, any high school student who maintains Kentucky residency and completes the academic courses that are required for a Kentucky educational excellence scholarship while participating in an approved educational high school foreign exchange program or participating in the United States Congressional Page School may apply his or her grade point average for that academic year toward the base as described in paragraph (a) of this subsection. The grade point average shall be reported by the student's Kentucky home high school, based on an official transcript from the school that the student attended during the out-of-state educational experience. The council shall promulgate

administrative regulations that describe the approval process for the educational exchange programs that qualify under this paragraph. The provisions in this paragraph shall likewise apply to any Kentucky high school student who participated in an approved educational exchange program or in a Congressional Page School since the 1998-99 school year and maintained his or her Kentucky residency throughout.

(d)~~[(c)]~~ 1. Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874 and the requirement that a student graduate from a Kentucky high school, a high school student who completes the KEES curriculum while attending an accredited out-of-state high school or Department of Defense school may apply the grade point average for any applicable academic year toward the base as described in paragraph (a) of this subsection and shall also qualify for a supplemental award under subsection (3) of this section when:

a. His or her custodial parent or guardian is in active service of the Armed Forces of the United States; and

b. The custodial parent or guardian maintained Kentucky as the home of record at the time the student attended an accredited out-of-state high school or a Department of Defense school.

2. The student or parent shall arrange for the out-of-state school to report the student's grade point average each academic year and the student's highest ACT score to the Kentucky Department of Education as required under KRS 164.7885. The Council on Postsecondary Education shall promulgate administrative regulations implementing the requirements in this paragraph, including:

a. The documentation that the parent shall submit to the council establishing the student's eligibility for the scholarship; and

b. The assurances that an out-of state institution shall submit to the Kentucky Department of Education for submission of the student grade point average.

3. The provisions in this paragraph shall apply to the 2001-2002 school year and thereafter.

(3) (a) The authority shall commit to provide to each eligible high school student graduating from high school before June 30, 1999, and achieving a score of at least 15 on the American College Test, a supplemental award for the award period beginning in the fall of 1999, based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT Score	Annual Bonus	ACT Score	Annual Bonus
15	$21	22	$171
16	$43	23	$193
17	$64	24	$214
18	$86	25	$236
19	$107	26	$257
20	$129	27	$279
21	$150	28 or above	$300

Subsequent supplemental awards for eligible high school students graduating before June 30, 1999, shall be determined in accordance with the provisions of paragraph (b) of this subsection.

(b) The authority shall commit to provide to each eligible high school student upon achievement after June 30, 1999, of an ACT score of at least 15 on the American College Test a supplemental award based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT Score	Amount	ACT Score	Amount
15	$36	22	$286
16	$71	23	$321
17	$107	24	$357
18	$143	25	$393
19	$179	26	$428
20	$214	27	$464
21	$250	28 and above	$500

The council shall review the base amount of the supplemental award beginning with the 2001-2002 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

(c) The council shall promulgate administrative regulations establishing the eligibility criteria and procedures for making a supplemental award to Kentucky residents who are citizens, nationals, or permanent residents of the United States and who graduate from a nonpublic secondary school not certified by the Kentucky Board of Education and Kentucky residents who are citizens, nationals, or permanent residents of the United States and who obtain a General Educational Development (GED) diploma within five (5) years of their high school graduating class, and students under subsection (2)(c) of this section who do not attend an accredited high school.

The Committee Substitute to **HB 183** is as follows:

HB 183, AN ACT relating to the Kentucky educational excellence scholarship.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

(1) "Academic term" means a semester or other time period ***including summer school sessions*** specified in an administrative regulation promulgated by the council;

(2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;

(3) "ACT score" means the composite score achieved on the American College Test at a national test site on a national test date or an equivalent score, as determined by the council, on the Scholastic Assessment Test;

(4) "Authority" means the Kentucky Higher Education Assistance Authority;

(5) "Award period" means two (2) consecutive academic terms;

(6) "Base scholarship amount" means that amount earned by an eligible high school student pursuant to KRS 164.7879 in each academic year as determined by the grade point average earned and reported by the high school at the end of the academic year;

(7) "Council" means the Council on Postsecondary Education created under KRS 164.011;

(8) "Eligible high school student" means any person who:

  (a) Is a citizen, national, or permanent resident of the United States and Kentucky resident;

  (b) Was enrolled after July 1, 1998:

    1. In a Kentucky high school for at least one hundred forty (140) days of the minimum school term unless exempted by the authority's executive director upon documentation of extreme hardship, while meeting the Kentucky educational excellence scholarship curriculum requirements, and was enrolled in a Kentucky high school at the end of the academic year; or

    2. In a Kentucky high school for the fall academic term of the senior year and who:

      a. Was enrolled during the entire academic term;

      b. Completed the high school's graduation requirements during the fall academic term; and

      c. Was not enrolled in a secondary school during any other academic term of that academic year; and

    3. Has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, or at the end of the fall academic term for a student eligible under subparagraph 2. of this paragraph; and

  (c) Is not a convicted felon;

(9) "Eligible postsecondary student" means a citizen, national, or permanent resident of the United States and Kentucky resident, as determined by the participating institution in accordance with criteria established by the council for the purposes of admission and tuition assessment, who:

  (a) Earned a Kentucky educational excellence scholarship base, supplemental, or base and supplemental final award;

  (b) Has the required postsecondary G.P.A. required under KRS 164.7881;

  (c) Has remaining semesters of eligibility under KRS 164.7881;

  (d) Is enrolled in a participating institution as a part-time or full-time student; and

  (e) Is not a convicted felon;

(10) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;

(11) "Grade point average" means the grade point average earned by an eligible student and reported by the high school or participating institution in which the student was enrolled based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;

(12) "High school" means any Kentucky public high school, and any private, parochial, or church school located in Kentucky that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and

textbook standards established by the Kentucky Board of Education under KRS 156.160;

(13) "KEES" means Kentucky educational excellence scholarship;

(14) "KEES curriculum" means five (5) courses of study, except for students who meet the criteria of subsection (8)(b)2. of this section, in an academic year as determined in accordance with an administrative regulation promulgated by the council;

(15) "Kentucky educational excellence scholarship" means a scholarship provided under KRS 164.7871 to 164.7885;

(16) "Kentucky educational excellence scholarship trust fund" means the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund;

(17) "Maximum award amount" means the sum of the base scholarship amount earned by an eligible high school student in each academic year of high school study plus any supplemental award earned by an eligible high school student or earned pursuant to KRS 164.7879(3)(c). The amount so determined shall be the maximum amount available to the eligible postsecondary student for any award period;

(18) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:

(a) 1. Is publicly operated; or

2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a general equivalency diploma or students transferring from another accredited degree granting institution; or

3. Is designated by the Council on Postsecondary Education as an approved out-of-state institution that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and

(b) Continues to commit financial resources to student financial assistance programs;

(19) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours or the equivalent for an institution that does not use credit hours; and

(20) "Supplemental award" means commitment of scholarship funds under KRS 164.7879(3).

Section 2. KRS 164.7879 is amended to read as follows:

(1) Kentucky educational excellence scholarship awards shall be based upon an established base scholarship amount and an eligible high school student's grade point average. The base scholarship amount for students attaining a grade point average of at least 2.5 for the 1998-1999 academic year shall be as follows:

GPA	Amount	GPA	Amount
2.50	$125.00	3.30	$325.00
2.60	$150.00	3.40	$350.00
2.70	$175.00	3.50	$375.00
2.75	$187.00	3.60	$400.00
2.80	$200.00	3.70	$425.00
2.90	$225.00	3.75	$437.00
3.00	$250.00	3.80	$450.00
3.10	$275.00	3.90	$475.00
3.20	$300.00	4.00	$500.00
3.25	$312.00		

The council shall review the base amount of the Kentucky educational excellence scholarship beginning with the 1999-2000 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

(2) (a) The authority shall commit to provide to each eligible high school student the base amount of the Kentucky educational excellence scholarship for each academic year of high school study in the Kentucky educational excellence scholarship curriculum that the high school student has attained at least a 2.5 grade point average*,* ***except as provided in paragraph (b) of this subsection***. The award shall be based upon the eligible high school student's grade point average at the close of each academic year. An award attributable to a past academic year shall not be increased after the award has been earned by an eligible high school student, regardless of any subsequent increases made to the base amount of the Kentucky educational excellence scholarship through the promulgation of an administrative regulation by the council.

(b) ***For each eligible high student who graduates from high school in three (3) academic years or less, the authority shall commit to provide:***

1. The base amount of the Kentucky educational excellence scholarship for each academic year of high school study in the Kentucky educational excellence scholarship curriculum that the high school student has attained at least a 2.5 grade point average; and

2. An additional amount for the student's cumulative high school grade point average for courses in the Kentucky educational excellence scholarship curriculum, using the scale and procedure set forth in subsection (1) of this section.

(c) Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874, any high school student who maintains Kentucky residency and completes the academic courses that are required for a Kentucky educational excellence scholarship while participating in an approved educational high school foreign exchange program or participating in the United States Congressional Page School may apply his or her grade point average for that academic year toward the base as described in paragraph (a) of this subsection. The grade point average shall be reported by the student's Kentucky home high school, based on an official transcript from the school that the student attended during the out-of-state educational experience. The council shall promulgate administrative regulations that describe the approval process for the educational exchange programs that qualify under this paragraph. The provisions in this paragraph shall likewise apply to any Kentucky high school student who participated in an approved educational exchange program or in a Congressional Page School since the 1998-99 school year and maintained his or her Kentucky residency throughout.

(d)[~~(c)~~]1. Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874 and the requirement that a student graduate from a Kentucky high school, a high school student who completes the KEES curriculum while attending an accredited out-of-state high school or Department of Defense school may apply the grade point average for any applicable academic year toward the base as described in paragraph (a) of this subsection and shall also qualify for a supplemental award under subsection (3) of this section when:

a. His or her custodial parent or guardian is in active service of the Armed Forces of the United States; and

b. The custodial parent or guardian maintained Kentucky as the home of record at the time the student attended an accredited out-of-state high school or a Department of Defense school.

2. The student or parent shall arrange for the out-of-state school to report the student's grade point average each academic year and the student's highest ACT score to the Kentucky Department of Education as required under KRS 164.7885. The Council on Postsecondary Education shall promulgate administrative regulations implementing the requirements in this paragraph, including:

a. The documentation that the parent shall submit to the council establishing the student's eligibility for the scholarship; and

b. The assurances that an out-of state institution shall submit to the Kentucky Department of Education for submission of the student grade point average.

3. The provisions in this paragraph shall apply to the 2001-2002 school year and thereafter.

(3) (a) The authority shall commit to provide to each eligible high school student graduating from high school before June 30, 1999, and achieving a score of at least 15 on the American College Test, a supplemental award for the award period beginning in the fall of 1999, based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT Score	Annual Bonus	ACT Score	Annual Bonus
15	$21	22	$171
16	$43	23	$193
17	$64	24	$214
18	$86	25	$236
19	$107	26	$257
20	$129	27	$279
21	$150	28 or above	$300

Subsequent supplemental awards for eligible high school students graduating before June 30, 1999, shall be determined in accordance with the provisions of paragraph (b) of this subsection.

(b) The authority shall commit to provide to each eligible high school student upon achievement after June 30, 1999, of an ACT score of at least 15 on the American College Test a supplemental award based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT Score	Amount	ACT Score	Amount
15	$36	22	$286
16	$71	23	$321
17	$107	24	$357
18	$143	25	$393
19	$179	26	$428
20	$214	27	$464
21	$250	28 and above	$500

The council shall review the base amount of the supplemental award beginning with the 2001-2002 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

(c) The council shall promulgate administrative regulations establishing the eligibility criteria and procedures for making a supplemental award to Kentucky residents who are citizens, nationals, or permanent residents of the United States and who graduate from a nonpublic secondary school not certified by the Kentucky Board of Education and Kentucky residents who are citizens, nationals, or permanent residents of the United States and who obtain a General Educational Development (GED) diploma within five (5) years of their high school graduating class, and students under subsection (2)(c) of this section who do not attend an accredited high school.

Section 3. KRS 164.7881 is amended to read as follows:

(1) Eligible high school students who have graduated from high school and eligible postsecondary students who have earned a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and a supplemental award, or a supplemental award only pursuant to KRS 164.7879(3)(c), shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or a supplemental award only for a maximum of eight (8) academic terms in an undergraduate or other postsecondary program of study at a participating institution, except as provided in subsection (6)***(b)*** of this section.

(2) To receive the Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, an eligible high school or postsecondary student shall:

(a) Enroll in and attend a participating institution as a full-time student or a part-time student; and

(b) Maintain eligibility as provided in subsection (3) of this section.

(3) Eligibility for a Kentucky educational excellence scholarship or a Kentucky educational excellence scholarship and supplemental award shall terminate upon the earlier of:

(a) The expiration of five (5) years following the student's graduation from high school, except as provided in subsection (5) or (6)***(b)*** of this section; or

(b) The successful completion of an undergraduate or other postsecondary course of study. However, any student who successfully completes the requirements for a degree or certification involving a postsecondary course of study that normally requires less than eight (8) academic terms to complete may continue to receive the benefits of a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, for a cumulative total of eight (8) academic terms if the student enrolls as at least a part-time student in a four (4) year program.

(4) (a) The maximum award amount shall be determined by the council and shall be adjusted as provided in this subsection. The award amount ultimately determined to be available to an eligible postsecondary student for an award period shall be disbursed by the authority to the eligible postsecondary student in two (2) installments, with one (1) installment being disbursed in each of the two (2) academic terms during the award period.

(b) The authority shall, by promulgation of administrative regulations, provide for the proportionate reduction of the maximum award amount for an eligible postsecondary student for any academic term in which the student is enrolled on a part-time basis. Each academic term for which any scholarship or supplemental award funds are accepted by an eligible postsecondary student shall count as a full academic term, even if the award amount was reduced to reflect the part-time status of the eligible postsecondary student.

(c) 1. An eligible postsecondary student who is enrolled full-time in an undergraduate program of study, in the pharmacy program at the University of Kentucky, or in a program of study designated as an equivalent undergraduate program of study by the Council on Postsecondary Education in an administrative regulation, shall receive the maximum award amount for the first award period that the student is enrolled in and attending the program of study. To retain the maximum award for the second award period, an eligible postsecondary student shall have at least a 2.5 grade point average at the end of the first award period. To retain the maximum award amount for subsequent award periods, an eligible postsecondary student shall have a cumulative grade point average of 3.0 or greater at the end of the prior award period.

2. Any eligible postsecondary student who maintains a cumulative grade point average of less than 3.0 but at least 2.5 at the completion of any award period shall receive a reduction in the maximum award amount equal to fifty percent (50%) of the maximum award amount for the next award period.
3. Any eligible postsecondary student who maintains a cumulative grade point average of less than 2.5 at the completion of any award period shall lose his or her award for the next award period.
4. Each participating institution shall certify to the authority at the close of each award period the cumulative grade point average of each Kentucky educational excellence scholarship recipient enrolled as a full-time or part-time student at the participating institution.
5. Any student who loses eligibility through failure to maintain the required cumulative grade point average may regain eligibility in a subsequent award period upon reestablishing at least a 2.5 cumulative grade point average or its equivalent during a subsequent award period, as certified by the participating institution.

(5) The expiration of a student's five (5) year eligibility shall be extended by the authority upon a determination that the student was unable to enroll for or complete an academic term due to any of the following circumstances:

(a) A serious and extended illness or injury of the student, certified by an attending physician;

(b) The death or serious and extended illness or injury of an immediate family member of the student, certified by an attending physician, which would render the student unable to attend classes;

(c) Natural disasters that would render a student unable to attend classes; or

(d) Active duty status for the student in the United States Armed Forces or as an officer in the Commissioned Corps of the United States Public Health Service, or active service by the student in the Peace Corps Act or the Americorps, for up to three (3) years.

(6) ***(a) An eligible postsecondary student who is enrolled at a participating institution and completes an undergraduate program in less than eight (8) academic terms shall be eligible to receive the remainder of his or her accumulated Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or the supplemental award in his or her final academic term.***

(b) An eligible postsecondary student who is enrolled at a participating institution in a five (5) year undergraduate degree program designated in an administrative regulation promulgated by the council shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or the supplemental award only for a maximum of ten (10) academic terms. The expiration of an eligible postsecondary student's five (5) year eligibility shall be extended to six (6) years for eligible postsecondary students meeting the requirements of this subsection.

(7) Each eligible high school student who attains a 28 or above on the ACT and a 4.0 grade point average for all four (4) years of high school shall be designated as a "Senator Jeff Green Scholar" in honor of the late Senator Jeff Green of Mayfield, Kentucky, First District, and shall be recognized by the high school in a manner consistent with recognition given by the high school to other high levels of academic achievement.

HB 309, AN ACT relating to school employees' sick leave.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.155 is amended to read as follows:

(1) As used in this section:

(a) "Teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state;

(b) "Employee" shall mean any person, other than a teacher, employed in the public schools, whether on a full or part-time basis;

(c) "Immediate family" shall mean the teacher's ***or employee's*** spouse, children including stepchildren and foster children, grandchildren, daughters-in-law and sons-in law, brothers and sisters, parents and spouse's parents, and grandparents and spouse's grandparents, without reference to the location or residence of said relative, and any other blood relative who resides in the teacher's ***or employee's*** home; and

(d) "Sick leave bank" shall mean an aggregation of sick leave days contributed by teachers or employees for use by teachers or employees who have exhausted all sick leave and other available paid leave days.

(2) Each district board of education shall allow to each teacher ***and employee*** in its common school system not less than ten (10) days of sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher ***or employee*** if he ***or she*** presents a personal affidavit or a certificate of a physician stating that the teacher ***or employee*** was ill, that the teacher ***or employee*** was absent for the purpose of attending to a member of his ***or her*** immediate family who was ill, or for the purpose of mourning a member of his ***or her*** immediate family. The ten (10) days of sick leave granted in this subsection may be taken by a teacher ***or employee*** on any ten (10) days of the school year and shall be granted in addition to accumulated sick leave days that have been credited to the teacher ***or employee*** under the provisions of

subsection (3) of this section.

(3) Days of sick leave not taken by an employee or a teacher during any school year shall accumulate without limitation and be credited to that employee or teacher. Accumulated sick leave may be taken in any school year. Any district board of education may, in its discretion, allow employees or teachers in its common school system sick leave in excess of the number of days prescribed in this section and may allow school district employees and teachers to use up to three (3) days' sick leave per school year for emergency leave pursuant to KRS 161.152(3). Any accumulated sick leave days credited to an employee or a teacher shall remain so credited in the event he ***or she*** transfers his ***or her*** place of employment from one (1) school district to another within the state or to the Kentucky Department of Education or transfers from the Department of Education to a school district.

(4) Accumulated days of sick leave shall be granted to a teacher ***or employee*** if, prior to the opening day of the school year, an affidavit or a certificate of a physician is presented to the district board of education, stating that the teacher ***or employee*** is unable to commence his ***or her*** duties on the opening day of the school year, but will be able to assume his ***or her*** duties within a period of time that the board determines to be reasonable.

(5) Any school teacher or employee may repurchase previously used sick leave days with the concurrence of the local school board by paying to the district an amount equal to the total of all costs associated with the used sick leave.

(6) A district board of education may adopt a plan for a sick leave bank. The plan may include limitations upon the number of days a teacher or employee may annually contribute to the bank and limitations upon the number of days a teacher or employee may annually draw from the bank. Only those teachers or employees who contribute to the bank may draw upon the bank. Days contributed will be deducted from the days available to the contributing teacher or employee. The sick leave bank shall be administered in accordance with a policy adopted by the board of education.

(7) (a) A district board of education shall establish a sick leave donation program to permit teachers or employees to voluntarily contribute sick leave to teachers or employees in the same school district who are in need of an extended absence from school. A teacher or employee who has accrued more than fifteen (15) days' sick leave may request the board of education to transfer a designated amount of sick leave to another teacher or employee who is authorized to receive the sick leave donated. A teacher or employee may not request an amount of sick leave be donated that reduces his or her sick leave balance to less than fifteen (15) days.

(b) A teacher or employee may receive donations of sick leave if:

1. a. The teacher or employee or a member of his or her immediate family suffers from a medically certified illness, injury, impairment, or physical or mental condition that has caused or is likely to cause the teacher or employee to be absent for at least ten (10) days; or

b. The teacher or employee suffers from a catastrophic loss to his or her personal or real property, due to either a natural disaster or fire, that either has caused or will likely cause the employee to be absent for at least ten (10) consecutive working days;

2. The teacher's or employee's need for the absence and use of leave are certified by a licensed physician for leave requested under subparagraph 1.a. of this subsection;

3. The teacher or employee has exhausted his or her accumulated sick leave, personal leave, and any other leave granted by the school district; and

4. The teacher or employee has complied with the school district's policies governing the use of sick leave.

(c) While a teacher or employee is on sick leave provided by this section, he or she shall be considered a school district employee, and his or her salary, wages, and other employee benefits shall not be affected.

(d) Any sick leave that remains unused, is not needed by a teacher or employee, and will not be needed in the future shall be returned to the teacher or employee donating the sick leave.

(e) The board of education shall adopt policies and procedures necessary to implement the sick leave donation program.

(8) A teacher ***or employee*** may use up to thirty (30) days of sick leave following the birth or adoption of a child or children. Additional days may be used when the need is verified by a physician's statement.

(9) After July 1, 1982, a district board of education may compensate, at the time of retirement or upon the death of a member in active contributing status at the time of death who was eligible to retire by reason of service, an employee or a teacher, or the estate of an employee or teacher, for each unused sick leave day. The rate of compensation for each unused sick leave day shall be based on a percentage of the daily salary rate calculated from the employee's or teacher's last annual salary, not to exceed thirty percent (30%). Payment for unused sick leave days shall be incorporated into the annual salary of the final year of service; provided that the member makes the regular retirement contribution for members on the sick leave payment. The accumulation of these days includes unused sick leave days held by the employee or teacher at the time of implementation of the program.

(10) Any statute to the contrary notwithstanding, employees and teachers who transferred from the Department of Education to a school district, from a school district to the Department of Education, or from one (1) school district to another school district after July 15, 1981, shall receive credit for any unused sick leave to which the employee or teacher was entitled on the date of transfer. This credit shall be for the purposes set forth in subsection (9) of this section.

(11) The death benefit provided in subsection (9) of this section may be cited as the Baughn Benefit.

The Committee Substitute to **HB 309** is as follows:

HB 309, AN ACT relating to school employees' sick leave.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.155 is amended to read as follows:

(1) As used in this section:

- (a) "Teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state;
- (b) "Employee" shall mean any person, other than a teacher, employed in the public schools, whether on a full or part-time basis;
- (c) "Immediate family" shall mean the teacher's ***or employee's*** spouse, children including stepchildren and foster children, grandchildren, daughters-in-law and sons-in law, brothers and sisters, parents and spouse's parents, and grandparents and spouse's grandparents, without reference to the location or residence of said relative, and any other blood relative who resides in the teacher's ***or employee's*** home; and
- (d) "Sick leave bank" shall mean an aggregation of sick leave days contributed by teachers or employees for use by teachers or employees who have exhausted all sick leave and other available paid leave days.

(2) Each district board of education shall allow to each teacher ***and full-time employee*** in its common school system not less than ten (10) days of sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher ***or employee*** if he ***or she*** presents a personal affidavit or a certificate of a physician stating that the teacher ***or employee*** was ill, that the teacher ***or employee*** was absent for the purpose of attending to a member of his ***or her*** immediate family who was ill, or for the purpose of mourning a member of his ***or her*** immediate family. The ten (10) days of sick leave granted in this subsection may be taken by a teacher ***or employee*** on any ten (10) days of the school year and shall be granted in addition to accumulated sick leave days that have been credited to the teacher ***or employee*** under the provisions of subsection (3) of this section.

(3) Days of sick leave not taken by an employee or a teacher during any school year shall accumulate without limitation and be credited to that employee or teacher. Accumulated sick leave may be taken in any school year. Any district board of education may, in its discretion, allow employees or teachers in its common school system sick leave in excess of the number of days prescribed in this section and may allow school district employees and teachers to use up to three (3) days' sick leave per school year for emergency leave pursuant to KRS 161.152(3). Any accumulated sick leave days credited to an employee or a teacher shall remain so credited in the event he ***or she*** transfers his ***or her*** place of employment from one (1) school district to another within the state or to the Kentucky Department of Education or transfers from the Department of Education to a school district.

(4) Accumulated days of sick leave shall be granted to a teacher ***or employee*** if, prior to the opening day of the school year, an affidavit or a certificate of a physician is presented to the district board of education, stating that the teacher ***or employee*** is unable to commence his ***or her*** duties on the opening day of the school year, but will be able to assume his ***or her*** duties within a period of time that the board determines to be reasonable.

(5) Any school teacher or employee may repurchase previously used sick leave days with the concurrence of the local school board by paying to the district an amount equal to the total of all costs associated with the used sick leave.

(6) A district board of education may adopt a plan for a sick leave bank. The plan may include limitations upon the number of days a teacher or employee may annually contribute to the bank and limitations upon the number of days a teacher or employee may annually draw from the bank. Only those teachers or employees who contribute to the bank may draw upon the bank. Days contributed will be deducted from the days available to the contributing teacher or employee. The sick leave bank shall be administered in accordance with a policy adopted by the board of education.

(7) (a) A district board of education shall establish a sick leave donation program to permit teachers or employees to voluntarily contribute sick leave to teachers or employees in the same school district who are in need of an extended absence from school. A teacher or employee who has accrued more than fifteen (15) days' sick leave may request the board of education to transfer a designated amount of sick leave to another teacher or employee who is authorized to receive the sick leave donated. A teacher or employee may not request an amount of sick leave be donated that reduces his or her sick leave balance to less than fifteen (15) days.

- (b) A teacher or employee may receive donations of sick leave if:
  - 1. a. The teacher or employee or a member of his or her immediate family suffers from a medically

certified illness, injury, impairment, or physical or mental condition that has caused or is likely to cause the teacher or employee to be absent for at least ten (10) days; or

b. The teacher or employee suffers from a catastrophic loss to his or her personal or real property, due to either a natural disaster or fire, that either has caused or will likely cause the employee to be absent for at least ten (10) consecutive working days;

2. The teacher's or employee's need for the absence and use of leave are certified by a licensed physician for leave requested under subparagraph 1.a. of this subsection;

3. The teacher or employee has exhausted his or her accumulated sick leave, personal leave, and any other leave granted by the school district; and

4. The teacher or employee has complied with the school district's policies governing the use of sick leave.

(c) While a teacher or employee is on sick leave provided by this section, he or she shall be considered a school district employee, and his or her salary, wages, and other employee benefits shall not be affected.

(d) Any sick leave that remains unused, is not needed by a teacher or employee, and will not be needed in the future shall be returned to the teacher or employee donating the sick leave.

(e) The board of education shall adopt policies and procedures necessary to implement the sick leave donation program.

(8) A teacher ***or employee*** may use up to thirty (30) days of sick leave following the birth or adoption of a child or children. Additional days may be used when the need is verified by a physician's statement.

(9) After July 1, 1982, a district board of education may compensate, at the time of retirement or upon the death of a member in active contributing status at the time of death who was eligible to retire by reason of service, an employee or a teacher, or the estate of an employee or teacher, for each unused sick leave day. The rate of compensation for each unused sick leave day shall be based on a percentage of the daily salary rate calculated from the employee's or teacher's last annual salary, not to exceed thirty percent (30%). Payment for unused sick leave days shall be incorporated into the annual salary of the final year of service; provided that the member makes the regular retirement contribution for members on the sick leave payment. The accumulation of these days includes unused sick leave days held by the employee or teacher at the time of implementation of the program.

(10) Any statute to the contrary notwithstanding, employees and teachers who transferred from the Department of Education to a school district, from a school district to the Department of Education, or from one (1) school district to another school district after July 15, 1981, shall receive credit for any unused sick leave to which the employee or teacher was entitled on the date of transfer. This credit shall be for the purposes set forth in subsection (9) of this section.

(11) The death benefit provided in subsection (9) of this section may be cited as the Baughn Benefit.

HB 398, AN ACT relating to school board elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.190 is amended to read as follows:

(1) Any vacancy in any board of education shall be filled by the chief state school officer within ninety (90) days after the vacancy occurs. The member so chosen shall meet the eligibility requirements as established by KRS 160.180 and shall hold office until his successor is elected and has qualified. The local board of education may make nominations and any person may nominate himself or another for the office.

(2) Any vacancy having an unexpired term of one (1) year or more at the next regular November election after the vacancy occurs shall be filled for the unexpired term by an election to be held at the next regular November election after the vacancy occurs. The elected member shall succeed the member chosen by the chief state school officer to fill the vacancy.

(3) Notwithstanding KRS 117.265, no vacancy for a seat on a county or independent board of education shall be filled by a write-in candidate unless a second candidate, who has filed a petition as required by KRS Chapter 118, appears on the printed ballot for the seat at issue. If a candidate for a seat on a county or independent board of education dies, withdraws, or is removed from the ballot, and no other candidate remains on the printed ballot, no write-in vote shall be counted by the county board of elections and no person filing and receiving votes as a write-in candidate shall be elected by this method.

Section 2. KRS 160.210 is amended to read as follows:

(1) (a) In independent school districts, the members of the school board shall be elected from the district at large. In county school districts, members shall be elected from divisions.

(b) If no candidate files a petition of nomination for a local board of education opening pursuant to KRS 118.315[~~ and 118.316~~], the chief state school officer shall fill the new term of office ***for all openings that have no candidate filings under KRS 118.315*** by appointing a member to the local board who meets the residency requirement and the qualifications for office provided in KRS 160.180. The local board of education may make nominations and any person may nominate himself or another for the office.

(2) The board of education of each county school district shall, not later than July 1, 1940, divide its district into five (5) divisions containing integral voting precincts and as equal in population insofar as is practicable. In first dividing the county district into divisions the board shall, if more than one (1) of its members reside in one (1) division, determine by lot which member from that division shall represent that division, and which members shall represent the divisions in which no member resides. The members so determined to represent divisions in which no member resides shall be considered the members from those divisions until their terms expire, and thereafter the members from those divisions shall be nominated and elected as provided in KRS 160.200 and 160.220 to 160.250.

(3) Any changes made in division boundary lines shall be to make divisions as equal in population and containing integral voting precincts insofar as is practical. No change may be made in division boundary lines less than five (5) years after the last change in any division lines, except in case of merger of districts, a change in territory due to annexation, or to allow compliance with KRS 117.055(2).

(4) (a) Notwithstanding the provisions of subsection (3) of this section, if one hundred (100) residents of a county school district division petition the Kentucky Board of Education stating that the school district divisions are not divided as nearly equal in population as can reasonably be expected, the chief state school officer shall cause an investigation to determine the validity of the petition, the investigation to be completed within thirty (30) days after receipt of the petition.

(b) If the investigation reveals the school district to be unequally divided according to population, the Kentucky Board of Education, upon the recommendation of the chief state school officer, shall order the local board of education to make changes in school district divisions as are necessary to equalize population within the five (5) school divisions.

(c) If any board fails to comply with the order of the Kentucky Board of Education within thirty (30) days or prior to August 1 in any year in which any members of the board are to be elected, members shall be elected from the district at large until the order of the Kentucky Board of Education has been complied with.

(d) No change shall be made in the boundary of any division under the provisions of this subsection after August 1 in the year in which a member of the school board is to be elected from any division.

(5) Notwithstanding the provisions of subsection (2) of this section, in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished, there shall be seven (7) divisions as equal in population as is practicable, with members elected from divisions. To be eligible to be elected from a division, a candidate must reside in that division. The divisions, based upon 1970 United States Census Bureau Reports on total population by census tracts for Jefferson County, Kentucky shall be as follows: Division One shall include census tracts 1-28; Division Two shall include census tracts 29-35, 47-53, 57-74, 80-84, 93, 129, 130; Division Three shall include census tracts 75-79, 85-88, 98-106, 107.01, 108; Division Four shall include census tracts 121.01, 123-128; Division Five shall include census tracts 36-46, 56, 90, 120, 121.02, 122; Division Six shall include census tracts 54, 55, 91, 92, 94, 95, 110.02, 113, 114, 117.01, 117.02, 118, 119; Division Seven shall include census tracts 89, 96, 97, 107.02, 109, 110.01, 111, 112, 115, 116, 117.03, 131, 132. The terms of the members to be elected, KRS 160.044 notwithstanding, shall be four (4) years and the election for the initial four (4) year terms shall be as follows: The election of the members from Divisions Two, Four and Seven shall be held at the next regular November election following the effective date of the merger pursuant to KRS 160.041, and the election of the members from Divisions One, Three, Five and Six shall be held at the regular November election two (2) years thereafter.

(6) In counties containing cities of the first class, responsibility for the establishment or the changing of school board division boundaries shall be with the local board of education, subject to the review and approval of the county board of elections. Where division and census tract boundaries do not coincide with existing election precinct boundaries, school board divisions shall be redrawn to comply with precinct boundaries. In no instance shall precinct boundaries be redrawn nor shall a precinct be divided to accommodate the drawing of school board division lines. Precinct boundaries nearest existing school board division boundaries shall become the new division boundary. All changes under this statute shall be completed on or before January 1, 1979, and on or before January 1 in any succeeding year in which a member of the school board is to be elected from any division. A record of all changes in division lines shall be kept in the offices of the county board of education and the county board of elections. The board of education shall publish all changes pursuant to KRS Chapter 424. A copy of the newspaper in which the notice is published shall be filed with the chief state school officer within ten (10) days following its publication.

HCR 67, A CONCURRENT RESOLUTION confirming the appointment of Kenneth W. Winters to the Council on Postsecondary Education.

WHEREAS, KRS 164.011 requires the Governor to appoint thirteen citizen members to the Council on Postsecondary Education, subject to confirmation by the House of Representatives and the Senate; and

WHEREAS, the Governor has appointed Kenneth W. Winters as a citizen member of the Council on Postsecondary Education for a term expiring December 31, 2009; and

WHEREAS, the House of Representatives and the Senate find that Kenneth W. Winters meets the requirements of KRS

164.0053 and KRS 164.011 for service on the Council on Postsecondary Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate, as required by KRS 164.011, hereby confirm the appointment of Kenneth W. Winters to the Council on Postsecondary Education for a term expiring December 31, 2009.

Section 2. The Clerk of the House of Representatives shall notify Kenneth W. Winters, 1500 Glendale Road, Murray, Kentucky 42071 and Governor Ernie Fletcher, State Capitol Building, Room 100, Frankfort, Kentucky 40601, in writing, of the General Assembly's action.

The Committee on Banking and Insurance reported **HB 372,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 372, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17A-200 is amended to read as follows:

(1) An insurer that offers health benefit plan coverage in the small group, large group, or association market may not establish rules for eligibility of any individual to enroll under the terms of the plan based on any of the following health status-related factors in relation to the individual or the dependent of the individual:

(a) Health status;

(b) Medical condition, including both physical and mental illness;

(c) Claims experience;

(d) Receipt of health care;

(e) Medical history;

(f) Genetic information;

(g) Evidence of insurability, including conditions arising out of acts of domestic violence; and

(h) Disability.

(2) An insurer that offers health benefit plan coverage in the small group, large group, or association market shall not require any individual to pay a premium or contribution which is greater than the premium or contribution for a similarly situated individual enrolled in the plan on the basis of any health status-related factor in relation to the individual or a dependent of the individual. Nothing in this subsection shall prevent the insurer from establishing premium discounts or rebates or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(3) Subject to subsections (4) to (7) of this section, each insurer that offers health benefit plan coverage in the small groups market shall accept every small employer that applies for coverage and shall accept for enrollment under this coverage every individual eligible for the coverage who applies for enrollment during the period in which the individual first becomes eligible to enroll under the terms of the group health benefit plan.

(a) Notwithstanding any other provision of this subsection, ***in offering coverage to small employers of two (2) to ten (10) employees within the small group market,*** the insurer may ***underwrite and refuse coverage for individuals within the group. Individuals refused coverage by an insurer under this subsection shall be eligible for coverage in Kentucky Access under Subtitle 17B of KRS Chapter 304. The insurer shall offer the Kentucky Access coverage through the employer and shall bill the individual for coverage on the employer's billing with other eligible employees.***

(b) Notwithstanding any other provision of this subsection, the insurer may establish group participation rules requiring a minimum number of participants or beneficiaries that must be enrolled in relation to a specified percentage or number of those eligible for enrollment.

(c)[~~(b)~~]The terms and participation rules of the group health benefit plan shall be uniformly applicable to small employers in the small group market.

(d) The insurer shall not be required to accept all small employers in the small group market who apply for coverage if the insurer's small group offering is made through a bona fide association program or employer-organized association program.

[~~(c) This subsection shall not apply to health benefit plan coverage offered by an insurer if the coverage is made available in the small group market only through one (1) or more bona fide associations.~~]

(4) In the case of an insurer that offers health benefit plan coverage in the small group market through a network plan, the insurer may:

(a) Limit the employers that may apply for coverage to those with individuals who live, work, or reside in the service area of the network plan; and

(b) Within the service area of the network plan, deny coverage to employers if the insurer has demonstrated to the commissioner that:

1. The network plan will not have the capacity to deliver services adequately to enrollees of any additional groups because of its obligations to existing group contract holders and enrollees; and
2. The insurer is applying this denial uniformly to all employers.

(5) An insurer, upon denying health benefit plan coverage in any service area in accordance with subsection (4) of this section, shall not offer coverage in the small group market within the service area for a period of one hundred eighty (180) days after the date the coverage is denied.

(6) An insurer may deny health benefit plan coverage in the small group market if the insurer has demonstrated to the commissioner that:

(a) The insurer does not have the financial reserves necessary to underwrite additional coverage; and

(b) The insurer is applying this denial uniformly to all employers in the small group market.

(7) An insurer, upon denying health benefit plan coverage in connection with group health plans in accordance with subsection (6) of this section, shall not offer coverage in the small group market for a period of one hundred eighty (180) days after the date the coverage is denied or until the insurer has demonstrated to the commissioner that the insurer has sufficient financial reserves to underwrite additional coverage, whichever is later.

(8) A health benefit plan issued as an individual policy to individual employees or their dependents through or with the permission of a small employer shall be issued on a guaranteed-issue basis to all full-time employees and shall comply with the pre-existing condition provisions of KRS 304.17A-220.

(9) (a) In connection with the offering of any health benefit plan to a small employer, an insurer:

1. Shall make a reasonable disclosure to a small employer, as part of its solicitation and sales materials, of the availability of information described in paragraph (b) of this subsection; and
2. Upon request of a small employer, provide the information described in paragraph (b) of this subsection.

(b) Subject to paragraph (c) of this subsection, with respect to an insurer offering a health benefit plan to a small employer, information described in this subsection is information concerning:

1. The provisions of the coverage concerning the insurer's right to change premium rates and the factors that may affect changes in premium rates;
2. The provisions of the health benefit plan relating to renewability of coverage;
3. The provisions of the health benefit plan relating to any preexisting condition exclusion; and
4. The benefits and premiums available under all health benefit plans for which the small employer is qualified.

(c) Information described in paragraph (b) of this subsection shall be provided to a small employer in a manner determined to be understandable by the average small employer and shall be sufficient to reasonably inform a small employer of his or her rights and obligations under the health benefit plan.

(d) An insurer is not required under this section to disclose any information that is proprietary and trade secret information under applicable law.

SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) This section shall not affect the requirement that an insurer in the small group market shall offer the standard plan pursuant to KRS 304.17A-250.

(2) An insurer shall offer to employer-organized associations a health benefit plan that excludes from health benefit plan coverage all designated mandated health insurance benefits specified in this chapter, except the benefit plan shall include those mandated benefits specified under federal law.

(3) Before issuing a limited health benefit plan, an insurer shall provide to the prospective policyholder a written disclosure statement and have the prospective policyholder sign the statement. The disclosure statement shall clearly state that mandated health insurance benefits are not covered by the health benefit plan and shall describe each excluded mandated health benefit.

(4) For purposes of this section, mandated benefits shall not be deemed to include KRS 6.948(1)(d).

SECTION 3. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any insurer issuing or delivering group health benefit plans in the Commonwealth shall provide to an employer-organized association health benefit plan, within twenty-one (21) days after a written request, information requested, including but not limited to the following information for the previous three (3) years or for the entire period of

coverage, whichever is shorter:

(a) Aggregate claims experience, by month, including claims experience for pharmacy benefits;

(b) Total premiums paid, by month;

(c) Total number of insureds on a monthly basis, by coverage tier; and

(d) Such other detailed claim and expense information as the employer-organized association health benefit plan may request.

(2) This section shall not require the insurer to disclose any nonpublic personal health information without the written consent of the individual who is the subject of the information, as required by administrative regulations promulgated by the commissioner. However, nonpublic personal health information may be provided to the employer-organized association health benefit plan as a covered entity to covered entity transfer under the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. sec. 300gg et seq., provided the health benefit plan certifies to the insurer that it has adopted HIPAA-required safeguards and will treat the nonpublic personal health information in accordance with HIPAA standards.

SECTION 4. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any insurer issuing or delivering group health insurance policies in the Commonwealth shall provide to an employer-organized association health benefit plan, within twenty-one (21) days after a written request, information requested, including but not limited to the following information for the previous three (3) years or for the entire period of coverage, whichever is shorter:

(a) Aggregate claims experience, by month, including claims experience for pharmacy benefits;

(b) Total premiums paid, by month;

(c) Total number of insureds on a monthly basis, by coverage tier; and

(d) Such other detailed claim and expense information as the employer-organized association health benefit plan may request.

(2) This section shall not require the insurer to disclose any nonpublic personal health information without the written consent of the individual who is the subject of the information, as required by administrative regulations promulgated by the commissioner. However, nonpublic personal health information may be provided to the employer-organized association health benefit plan as a covered entity to covered entity transfer under the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. sec. 300gg et seq., provided the health benefit plan certifies to the insurer that it has adopted HIPAA-required safeguards and will treat the nonpublic personal health information in accordance with HIPAA standards.

SECTION 5. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any health maintenance organization issuing or delivering group health insurance policies, plans, or contracts in the Commonwealth shall provide to an employer-organized association health benefit plan, within twenty-one (21) days after a written request, information requested, including but not limited to the following information for the previous three (3) years or for the entire period of coverage, whichever is shorter:

(a) Aggregate claims experience, by month, including claims experience for pharmacy benefits;

(b) Total premiums paid, by month;

(c) Total number of insureds on a monthly basis, by coverage tier; and

(d) Such other detailed claim and expense information as the employer-organized association health benefit plan may request.

(2) This section shall not require the health maintenance organization to disclose any nonpublic personal health information without the written consent of the individual who is the subject of the information, as required by administrative regulations promulgated by the commissioner. However, nonpublic personal health information may be provided to the employer-organized association health benefit plan as a covered entity to covered entity transfer under the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. sec. 300gg et seq., provided the health benefit plan certifies to the insurer that it has adopted HIPAA-required safeguards and will treat the nonpublic personal health information in accordance with HIPAA standards.

SECTION 6. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Beginning no later than August 1, 2004, every insurer offering or issuing a health benefit plan in the Commonwealth of Kentucky shall use the uniform employee application form developed by the commissioner by administrative regulation when a person or employer applies for coverage under a health benefit plan offered by the employer insurer.

(2) The commissioner shall by administrative regulation develop a uniform employee application form in the small group, large group, and individual insurance markets that an insurer must use when a person or employer applies for coverage under a health benefit plan offered by the insurer. The commissioner shall revise the form for each market at least every two (2) years.

Section 7. KRS 304.12-090 is amended to read as follows:

(1) No insurer or employee or representative thereof shall knowingly charge, demand, or receive a premium for any insurance policy except in accordance with the applicable filing on file with the commissioner. No such insurer, employee, or representative shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as an inducement to insurance or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducements whatever, or give, sell, or purchase, or offer to give, sell, or purchase anything of value whatsoever not specified in the policy, except to the extent provided for in such applicable filing.

(2) No insured named in a policy, nor any employee or representative thereof shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement or reduction of premium, or any special favor or advantage or valuable consideration or inducement.

(3) Subsection (1) and (2) of this section shall not apply as to life insurance and health insurance. Except as expressly provided by law no insurer, employee, or representative shall knowingly permit or offer to make or make any contract of life insurance, life annuity or health insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or pay or allow, or give or offer to pay, allow or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not expressed in the contract.

(4) No insurer shall negotiate any pricing with any person for a good or service provided under a health insurance contract that includes a rebate or return of funds in any form to the insurer, unless that insurer:

(a) Returns the funds directly to the policyholder in the form of direct funds or premium reductions; and

(b) Accounts directly to the policyholder for the application of the funds returned to the insurers.

The Committee Substitute to **HB 372**, is as follows:

HB 372, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17A-200 is amended to read as follows:

(1) An insurer that offers health benefit plan coverage in the small group, large group, or association market may not establish rules for eligibility of any individual to enroll under the terms of the plan based on any of the following health status-related factors in relation to the individual or the dependent of the individual:

(a) Health status;

(b) Medical condition, including both physical and mental illness;

(c) Claims experience;

(d) Receipt of health care;

(e) Medical history;

(f) Genetic information;

(g) Evidence of insurability, including conditions arising out of acts of domestic violence; and

(h) Disability.

(2) An insurer that offers health benefit plan coverage in the small group, large group, or association market shall not require any individual to pay a premium or contribution which is greater than the premium or contribution for a similarly situated individual enrolled in the plan on the basis of any health status-related factor in relation to the individual or a dependent of the individual. Nothing in this subsection shall prevent the insurer from establishing premium discounts or rebates or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

(3) Subject to subsections (4) to (7) of this section, each insurer that offers health benefit plan coverage in the small groups market shall accept every small employer that applies for coverage and shall accept for enrollment under this coverage every individual eligible for the coverage who applies for enrollment during the period in which the individual first becomes eligible to enroll under the terms of the group health benefit plan.

(a) Notwithstanding any other provision of this subsection, *in offering coverage to small employers of two (2) to ten (10) employees within an employer-organized association,* the insurer may *permit an individual to refuse coverage within the group. Individuals refusing coverage by an insurer under this subsection shall be eligible for coverage in Kentucky Access under Subtitle 17B of KRS Chapter 304. The insurer shall offer the Kentucky Access coverage through the employer and shall bill the individual for coverage on the employer's billing with other eligible employees.*

(b) Notwithstanding any other provision of this subsection, the insurer may establish group participation rules requiring a minimum number of participants or beneficiaries that must be enrolled in relation to a specified percentage or number of those eligible for enrollment.

(c)[~~(b)~~]The terms and participation rules of the group health benefit plan shall be uniformly applicable to small employers in the small group market.

(d) The insurer shall not be required to accept all small employers in the small group market who are not members of the association or employer-organized association and who apply for coverage if the insurer's small group offering is made through a bona fide association program or employer-organized association program.

[~~(c) This subsection shall not apply to health benefit plan coverage offered by an insurer if the coverage is made available in the small group market only through one (1) or more bona fide associations.~~]

(4) In the case of an insurer that offers health benefit plan coverage in the small group market through a network plan, the insurer may:

(a) Limit the employers that may apply for coverage to those with individuals who live, work, or reside in the service area of the network plan; and

(b) Within the service area of the network plan, deny coverage to employers if the insurer has demonstrated to the commissioner that:

1. The network plan will not have the capacity to deliver services adequately to enrollees of any additional groups because of its obligations to existing group contract holders and enrollees; and

2. The insurer is applying this denial uniformly to all employers.

(5) An insurer, upon denying health benefit plan coverage in any service area in accordance with subsection (4) of this section, shall not offer coverage in the small group market within the service area for a period of one hundred eighty (180) days after the date the coverage is denied.

(6) An insurer may deny health benefit plan coverage in the small group market if the insurer has demonstrated to the commissioner that:

(a) The insurer does not have the financial reserves necessary to underwrite additional coverage; and

(b) The insurer is applying this denial uniformly to all employers in the small group market.

(7) An insurer, upon denying health benefit plan coverage in connection with group health plans in accordance with subsection (6) of this section, shall not offer coverage in the small group market for a period of one hundred eighty (180) days after the date the coverage is denied or until the insurer has demonstrated to the commissioner that the insurer has sufficient financial reserves to underwrite additional coverage, whichever is later.

(8) A health benefit plan issued as an individual policy to individual employees or their dependents through or with the permission of a small employer shall be issued on a guaranteed-issue basis to all full-time employees and shall comply with the pre-existing condition provisions of KRS 304.17A-220.

(9) (a) In connection with the offering of any health benefit plan to a small employer, an insurer:

1. Shall make a reasonable disclosure to a small employer, as part of its solicitation and sales materials, of the availability of information described in paragraph (b) of this subsection; and

2. Upon request of a small employer, provide the information described in paragraph (b) of this subsection.

(b) Subject to paragraph (c) of this subsection, with respect to an insurer offering a health benefit plan to a small employer, information described in this subsection is information concerning:

1. The provisions of the coverage concerning the insurer's right to change premium rates and the factors that may affect changes in premium rates;

2. The provisions of the health benefit plan relating to renewability of coverage;

3. The provisions of the health benefit plan relating to any preexisting condition exclusion; and

4. The benefits and premiums available under all health benefit plans for which the small employer is qualified.

(c) Information described in paragraph (b) of this subsection shall be provided to a small employer in a manner determined to be understandable by the average small employer and shall be sufficient to reasonably inform a small employer of his or her rights and obligations under the health benefit plan.

(d) An insurer is not required under this section to disclose any information that is proprietary and trade secret information under applicable law.

SECTION 2. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) This section shall not affect the requirement that an insurer in the small group market shall offer the standard plan pursuant to KRS 304.17A-250.

(2) An insurer who offers coverage to employer-organized associations shall offer to such employer-organized associations a health benefit plan that excludes from health benefit plan coverage all designated state-mandated health insurance benefits specified in this chapter, except the benefit plan shall include those mandated benefits specified under federal law.

(3) Before issuing a limited health benefit plan under this section, an insurer shall provide to the prospective policyholder a written disclosure statement and have the prospective policyholder sign the statement. The disclosure statement shall clearly state that mandated health insurance benefits are not covered by the health benefit plan and shall describe each excluded mandated health benefit.

(4) Notwithstanding any other provisions of this chapter, mandated benefits excluded from coverage shall not be deemed to include the payment, indemnity, or reimbursement of specified health care providers for specific health care services.

SECTION 3. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any insurer issuing or delivering group health benefit plans in the Commonwealth shall provide to an employer-organized association health benefit plan, within twenty-one (21) days after a written request, the information relating to its health benefit plan that has been requested, including but not limited to the following information for the previous three (3) years or for the entire period of coverage, whichever is shorter:

(a) Aggregate claims experience, by month, including claims experience for pharmacy benefits;

(b) Total premiums paid, by month;

(c) Total number of insureds on a monthly basis, by coverage tier; and

(d) Such other detailed claim and expense information as the employer-organized association health benefit plan may request.

(2) This section shall not require the insurer to disclose any nonpublic personal health information without the written consent of the individual who is the subject of the information, as required by administrative regulations promulgated by the commissioner. However, nonpublic personal health information may be provided to the employer-organized association health benefit plan as a covered entity to covered entity transfer under the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. sec. 300gg et seq., provided the health benefit plan certifies to the insurer that it has adopted HIPAA-required safeguards and will treat the nonpublic personal health information in accordance with HIPAA standards.

SECTION 4. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any insurer issuing or delivering group health insurance policies in the Commonwealth shall provide to an employer-organized association health benefit plan, within twenty-one (21) days after a written request, information requested, including but not limited to the following information for the previous three (3) years or for the entire period of coverage, whichever is shorter:

(a) Aggregate claims experience, by month, including claims experience for pharmacy benefits;

(b) Total premiums paid, by month;

(c) Total number of insureds on a monthly basis, by coverage tier; and

(d) Such other detailed claim and expense information as the employer-organized association health benefit plan may request.

(2) This section shall not require the insurer to disclose any nonpublic personal health information without the written consent of the individual who is the subject of the information, as required by administrative regulations promulgated by the commissioner. However, nonpublic personal health information may be provided to the employer-organized association health benefit plan as a covered entity to covered entity transfer under the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. sec. 300gg et seq., provided the health benefit plan certifies to the insurer that it has adopted HIPAA-required safeguards and will treat the nonpublic personal health information in accordance with HIPAA standards.

SECTION 5. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any health maintenance organization issuing or delivering group health insurance policies, plans, or contracts in the Commonwealth shall provide to an employer-organized association health benefit plan, within twenty-one (21) days after a written request, information requested, including but not limited to the following information for the previous three (3) years or for the entire period of coverage, whichever is shorter:

(a) Aggregate claims experience, by month, including claims experience for pharmacy benefits;

(b) Total premiums paid, by month;

(c) Total number of insureds on a monthly basis, by coverage tier; and

(d) Such other detailed claim and expense information as the employer-organized association health benefit plan may request.

(2) This section shall not require the health maintenance organization to disclose any nonpublic personal health information without the written consent of the individual who is the subject of the information, as required by administrative regulations promulgated by the commissioner. However, nonpublic personal health information may be provided to the employer-organized association health benefit plan as a covered entity to covered entity transfer under the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. sec. 300gg et seq.,

provided the health benefit plan certifies to the insurer that it has adopted HIPAA-required safeguards and will treat the nonpublic personal health information in accordance with HIPAA standards.

SECTION 6. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Beginning no later than August 1, 2004, every insurer offering or issuing a health benefit plan in the Commonwealth of Kentucky shall use the uniform employee application form developed by the commissioner by administrative regulation when a person or employer applies for coverage under a health benefit plan offered by the employer insurer.

(2) The commissioner shall by administrative regulation develop a uniform employee application form in the small group, large group, and individual insurance markets that an insurer must use when a person or employer applies for coverage under a health benefit plan offered by the insurer. The commissioner shall revise the form for each market at least every two (2) years.

Section 7. KRS 304.12-090 is amended to read as follows:

(1) No insurer or employee or representative thereof shall knowingly charge, demand, or receive a premium for any insurance policy except in accordance with the applicable filing on file with the commissioner. No such insurer, employee, or representative shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as an inducement to insurance or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducements whatever, or give, sell, or purchase, or offer to give, sell, or purchase anything of value whatsoever not specified in the policy, except to the extent provided for in such applicable filing.

(2) No insured named in a policy, nor any employee or representative thereof shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement or reduction of premium, or any special favor or advantage or valuable consideration or inducement.

(3) Subsection (1) and (2) of this section shall not apply as to life insurance and health insurance. Except as expressly provided by law no insurer, employee, or representative shall knowingly permit or offer to make or make any contract of life insurance, life annuity or health insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or pay or allow, or give or offer to pay, allow or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not expressed in the contract.

(4) No insurer shall negotiate any pricing with any person for a good or service provided under a health insurance contract, including but not limited to drug rebates, that includes a rebate or return of funds in any form to the insurer, unless that insurer:

(a) Returns the funds directly to the policyholder in the form of direct funds or premium reductions; and

(b) Accounts directly to the policyholder for the application of the funds returned to the insurers.

Section 8. KRS 304.17B-015 is amended to read as follows:

(1) Any individual who is an eligible individual is eligible for coverage under Kentucky Access, except as specified in paragraphs (a), (b), (d), and (e) of subsection (4) of this section.

(2) Any individual who is not an eligible individual who has been a resident of the Commonwealth for at least twelve (12) months immediately preceding the application for Kentucky Access coverage is eligible for coverage under Kentucky Access if one (1) of the following conditions is met:

(a) The individual has been rejected by at least one (1) insurer for coverage of a health benefit plan that is substantially similar to Kentucky Access coverage;

(b) The individual has been offered coverage substantially similar to Kentucky Access coverage at a premium rate greater than the Kentucky Access premium rate at the time of enrollment or upon renewal;[~~ or~~]

(c) The individual has a high-cost condition listed in KRS 304.17B-001***; or***

(d) The individual is enrolled or eligible to be enrolled in a small group of two (2) to ten (10) employees which is eligible for participation in an employer-organized association health benefit plan.

(3) A Kentucky Access enrollee whose premium rates exceed claims for a three (3) year period shall be issued a notice of insurability. The notice shall indicate that the Kentucky Access enrollee has not had claims exceed premium rates for a three (3) year period and may be used by the enrollee to obtain insurance in the regular individual market.

(4) An individual shall not be eligible for coverage under Kentucky Access if:

(a) The individual has, or is eligible for, on the effective date of coverage under Kentucky Access, substantially similar coverage under another contract or policy, unless the individual was issued coverage from a GAP participating insurer as a GAP qualified individual prior to January 1, 2001. A GAP qualified individual shall be automatically eligible for coverage under Kentucky Access without regard to the requirements of subsection (2) of this section. An individual who is ineligible for coverage pursuant to this paragraph shall not preclude the individual's spouse or dependents from being eligible for Kentucky Access coverage. As used in this paragraph, "eligible for" includes any individual who was eligible for coverage but waived that coverage. That individual shall be ineligible for Kentucky Access coverage through the period of waived coverage;

(b) The individual is eligible for coverage under Medicaid or Medicare;

(c) The individual previously terminated Kentucky Access coverage and twelve (12) months have not elapsed since the coverage was terminated, unless the individual demonstrates a good faith reason for the termination;

(d) Except for covered benefits paid under the standard health benefit plan as specified in KRS 304.17B-019, Kentucky Access has paid two million dollars ($2,000,000) in covered benefits per individual. The maximum limit under this paragraph may be increased by the department; or

(e) The individual is confined to a public institution or incarcerated in a federal, state, or local penal institution or in the custody of federal, state, or local law enforcement authorities, including work release programs.

(5) The coverage of any person who ceases to meet the requirements of this section or the requirements of any administrative regulation promulgated under this subtitle may be terminated.

The Committee on Judiciary reported **HB 91, HB 303,** with Committee Substitute attached thereto, **HB 359,** with Committee Substitute attached thereto, and **HB 389,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 91, AN ACT relating to adoption of the Uniform Child Custody Jurisdiction and Enforcement Act.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

ARTICLE 1.

GENERAL PROVISIONS

SECTION 1. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 41 of this Act:

(1) "Abandoned" means left without provision for reasonable and necessary care or supervision;

(2) "Child" means an individual who has not attained eighteen (18) years of age;

(3) "Child custody determination" means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes permanent, temporary, initial, and modification orders. The term does not include an order relating to child support or other monetary obligation of an individual;

(4) "Child custody proceeding" means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under Sections 22 to 38 of this Act;

(5) "Commencement" means the filing of the first pleading in a proceeding;

(6) "Court" means an entity authorized under the law of a state to establish, enforce, or modify a child custody determination;

(7) "Home state" means the state in which a child lived with a parent or a person acting as a parent for at least six (6) consecutive months immediately before the commencement of a child custody proceeding. In the case of a child less than six (6) months of age, the term means the state in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period;

(8) "Initial determination" means the first child custody determination concerning a particular child;

(9) "Issuing court" means the court that makes a child custody determination for which enforcement is sought under Sections 1 to 41 of this Act;

(10) "Issuing state" means the state in which a child custody determination is made;

(11) "Modification" means a child custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination;

(12) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity;

(13) "Person acting as a parent" means a person, other than a parent, who:

(a) Has physical custody of the child or has had physical custody for a period of six (6) consecutive months, including any temporary absence, within one (1) year immediately before the commencement of a child custody proceeding; and

(b) Has been awarded legal custody by a court or claims a right to legal custody under the law of this state;

(14) "Physical custody" means the physical care and supervision of a child;

(15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States;

(16) "Tribe" means an Indian tribe or band, or Alaskan Native village, which is recognized by federal law or formally acknowledged by a state; and

(17) "Warrant" means an order issued by a court authorizing law enforcement officers to take physical custody of a child.

SECTION 2. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 41 of this Act shall not govern an adoption proceeding or a proceeding pertaining to the authorization of emergency medical care for a child.

SECTION 3. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A child custody proceeding that pertains to an Indian child as defined in the Indian Child Welfare Act, 25 U.S.C. sec. 1901 et seq., is not subject to Sections 1 to 41 of this Act to the extent that it is governed by the Indian Child Welfare Act.

(2) A court of this state shall treat a tribe as if it were a state of the United States for the purpose of applying Sections 1 to 21 of this Act.

(3) A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of Sections 1 to 41 of this Act shall be recognized and enforced under Sections 22 to 38 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A court of this state shall treat a foreign country as if it were a state of the United States for the purpose of applying Sections 1 to 21 of this Act.

(2) Except as otherwise provided in subsection (3) of this section, a child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of Sections 1 to 41 of this Act shall be recognized and enforced under Sections 22 to 38 of this Act.

(3) A court of this state need not apply Sections 1 to 41 of this Act if the child custody law of a foreign country violates fundamental principles of human rights.

SECTION 5. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

A child custody determination made by a court of this state that had jurisdiction under Sections 1 to 41 of this Act binds all persons who have been served in accordance with the laws of this state or notified in accordance with Section 7 of this Act or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to those persons, the determination is conclusive as to all decided issues of law and fact except to the extent the determination is modified.

SECTION 6. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

If a question of existence or exercise of jurisdiction under Sections 1 to 41 of this Act is raised in a child custody proceeding, the question, upon request of a party, shall be given priority on the calendar and handled expeditiously.

SECTION 7. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) Notice required for the exercise of jurisdiction when a person is outside this state shall be given in a manner prescribed by the law of this state for service of process or by the law of the state in which the service is made. Notice shall be given in a manner reasonably calculated to give actual notice but may be by warning order if other means are not effective.

(2) Proof of service shall be made in the manner prescribed by the law of this state or by the law of the state in which the service is made.

(3) Notice shall not be required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

SECTION 8. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A party to a child custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child custody determination, is not subject to personal jurisdiction in this state for another proceeding or purpose solely by reason of having participated, or of having been physically present for the purpose of participating, in the proceeding.

(2) A person who is subject to personal jurisdiction in this state on a basis other than physical presence is not immune from service of process in this state. A party present in this state who is subject to the jurisdiction of another state is not immune from service of process allowable under the laws of that state.

(3) The immunity granted by subsection (1) of this section does not extend to civil litigation based on acts unrelated to the participation in a proceeding under Sections 1 to 41 of this Act committed by an individual while present in this state.

SECTION 9. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A court of this state may communicate with a court in another state concerning a proceeding arising under Sections 1 to 41 of this Act.

(2) The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, they shall be given an opportunity to present facts and legal arguments before a decision on jurisdiction is made.

(3) Communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of the communication.

(4) Except as otherwise provided in subsection (3) of this section, a record shall be made of a communication under this section. The parties shall be informed promptly of the communication and granted access to the record.

(5) As used in this section, "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

SECTION 10. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) In addition to other procedures available to a party, a party to a child custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in this state for testimony taken in another state. The court on its own motion may order that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony is taken.

(2) A court of this state may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated court or at another location in that state. A court of this state shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.

(3) Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing shall not be excluded from evidence on an objection based on the means of transmission.

SECTION 11. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A court of this state may request the appropriate court of another state to:

(a) Hold an evidentiary hearing;

(b) Order a person to produce or give evidence pursuant to procedures of that state;

(c) Order that an evaluation be made with respect to the custody of a child involved in a pending proceeding;

(d) Forward to the court of this state a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request; or

(e) Order a party to a child custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.

(2) Upon request of a court of another state, a court of this state may hold a hearing or enter an order described in subsection (1) of this section.

(3) Travel and other necessary and reasonable expenses incurred under subsections (1) and (2) of this section may be assessed against the parties according to the law of this state.

(4) A court of this state shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child custody proceeding until the child attains eighteen (18) years of age. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of those records.

ARTICLE 2.

JURISDICTION

SECTION 12. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in Section 15 of this Act, a court of this state shall have jurisdiction to make an initial child custody determination only if:

(a) This state is the home state of the child on the date of the commencement of the proceeding, or was the home state of the child within six (6) months before the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state; or

(b) A court of another state does not have jurisdiction under paragraph (a) of this subsection, or a court of the home state of the child has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under Section 18 or 19 of this Act; and

1. The child and the child's parents, or the child and at least one (1) parent or a person acting as a parent, have a significant connection with this state other than mere physical presence; and

2. Substantial evidence is available in this state concerning the child's care, protection, training, and personal relationships; or

(c) All courts having jurisdiction under paragraph (a) or (b) or this subsection have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the child under Section 18 or 19 of this Act; or

(d) No court of any other state would have jurisdiction under the criteria specified in paragraph (a), (b), or (c) of this subsection.

(2) Subsection (1) of this section is the exclusive jurisdictional basis for making a child custody determination by a court of this state.

(3) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination.

SECTION 13. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in Section 15 of this Act, a court of this state which has made a child custody determination consistent with Section 12 or 14 of this Act has exclusive, continuing jurisdiction over the determination until:

(a) A court of this state determines that neither the child, nor the child and one (1) parent, nor the child and a person acting as a parent have a significant connection with this state and that substantial evidence is no longer available in this state concerning the child's care, protection, training, and personal relationships; or

(b) A court of this state or a court of another state determines that the child, the child's parents, and any other person acting as a parent do not presently reside in this state.

(2) A court of this state which has made a child custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination only if it has jurisdiction to make an initial determination under Section 12.

SECTION 14. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

Except as otherwise provided in Section 15 of this Act, a court of this state shall not modify a child custody determination made by a court of another state unless a court of this state has jurisdiction to make an initial determination under subsection (1)(a) or (1)(b) of Section 12 of this Act and:

(1) The court of the other state determines that it no longer has exclusive, continuing jurisdiction under Section 13 of this Act or that a court of this state would be a more convenient forum under Section 18 of this Act; or

(2) A court of this state or a court of the other state determines that the child, the child's parents, and any person acting as a parent do not presently reside in the other state.

SECTION 15. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A court of this state has temporary emergency jurisdiction if the child is present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

(2) If there is no previous child custody determination that is entitled to be enforced under Sections 1 to 41 of this Act and a child custody proceeding has not been commenced in a court of a state having jurisdiction under Sections 12, 13, and 14 of this Act, a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under Sections 12, 13, and 14 of this Act. If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under Sections 12, 13, and 14 of this Act, a child custody determination made under this section becomes a final determination, if it so provides and this state becomes the home state of the child.

(3) If there is a previous child custody determination that is entitled to be enforced under Sections 1 to 41 of this Act, or a child custody proceeding has been commenced in a court of a state having jurisdiction under Sections 12, 13, and 14 of this Act, any order issued by a court of this state under this section shall specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under Sections 12, 13, and 14 of this Act. The order issued in this state remains in effect until an order is obtained from the other state within the period specified or the period expires.

(4) A court of this state which has been asked to make a child custody determination under this section, upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of a state having jurisdiction under Sections 12, 13, and 14 of this Act, shall immediately communicate with the other court. A court of this state which is exercising jurisdiction pursuant to Sections 12, 13, and 14 of this Act, upon being informed that a child custody proceeding has been commenced in, or a child custody determination had been made by, a court of another state under a statute similar to this section shall immediately communicate with the court of that state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

SECTION 16. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) Before a child custody determination is made under Sections 1 to 41 of this Act, notice and an opportunity to be heard in accordance with the standards of Section 7 of this Act shall be given to all persons entitled to notice under the law of this state as in child custody proceedings between residents of this state, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.

(2) Sections 1 to 41 of this Act do not govern the enforceability of a child custody determination made without notice or an

opportunity to be heard.

(3) The obligation to join a party and the right to intervene as a party in a child custody proceeding under Sections 1 to 41 of this Act are governed by the law of this state as in child custody proceedings between residents of this state.

SECTION 17. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in Section 15 of this Act, a court of this state shall not exercise jurisdiction under Sections 12 to 21 of this Act if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with Sections 1 to 41 of this Act, unless the proceeding has been terminated or is stayed by the court of the other state because a court of this state is a more convenient forum under Section 18 of this Act.

(2) Except as otherwise provided in Section 15 of this Act, a court of this state, before hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to Section 20 of this Act. If the court determines that a child custody proceeding has been commenced in a court in another state having jurisdiction substantially in accordance with Sections 1 to 41 of this Act, the court of this state shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with Sections 1 to 41 of this Act does not determine that the court of this state is a more appropriate forum, the court of this state shall dismiss the proceeding.

(3) In a proceeding to modify a child custody determination, a court of this state shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child custody determination has been commenced in another state, the court may:

(a) Stay the proceeding for modification pending the entry of an order of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement;

(b) Enjoin the parties from continuing with the proceeding for enforcement; or

(c) Proceed with the modification under conditions it considers appropriate.

SECTION 18. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A court of this state which has jurisdiction under Sections 1 to 41 of this Act to make a child custody determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon motion of a party, the court's own motion, or request of another court.

(2) Before determining whether it is an inconvenient forum, a court of this state shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including:

(a) Whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child;

(b) The length of time the child has resided outside this state;

(c) The distance between the court in this state and the court in the state that would assume jurisdiction;

(d) The relative financial circumstances of the parties;

(e) Any agreement of the parties as to which state should assume jurisdiction;

(f) The nature and location of the evidence required to resolve the pending litigation, including testimony of the child;

(g) The ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence; and

(h) The familiarity of the court of each state with the facts and issues in the pending litigation.

(3) If a court of this state determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, it shall stay the proceedings upon condition that a child custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.

(4) A court of this state may decline to exercise its jurisdiction under Sections 1 to 41 of this Act if a child custody determination is incidental to an action for divorce or another proceeding while still retaining jurisdiction over the divorce or other proceeding.

SECTION 19. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in Section 15 of this Act, or by other law of this state, if a court of this state has jurisdiction under Sections 1 to 41 of this Act because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:

(a) The parents and all persons acting as parents have acquiesced in the exercise of jurisdiction;

(b) A court of the state otherwise having jurisdiction under Sections 12, 13, and 14 of this Act determines that this state is a more appropriate forum under Section 18 of this Act; or

(c) No court of any other state would have jurisdiction under the criteria specified in Sections 12, 13, and 14 of this Act.

(2) If a court of this state declines to exercise its jurisdiction pursuant to subsection (1) of this section, it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct, including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under Sections 12, 13, and 14 of this Act.

(3) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subsection (1) of this section, it shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court shall not assess fees, costs, or expenses against this state unless authorized by law other than Sections 1 to 41 of this Act.

SECTION 20. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) In a child custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address or whereabouts, the places where the child has lived during the last five (5) years, and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit shall state whether the party:

(a) Has participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the child and, if so, identify the court, the case number, and the date of the child custody determination, if any;

(b) Knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding; and

(c) Knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or visitation with, the child and, if so, the names and addresses of those persons.

(2) If the information required by subsection (1) of this section is not furnished, the court, upon motion of a party or its own motion, may stay the proceeding until the information is furnished.

(3) If the declaration as to any of the items described in subsection (1) of this section is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to the details of the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.

(4) Each party has a continuing duty to inform the court of any proceeding in this or any other state that could affect the current proceeding.

(5) If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of identifying information, the information shall be sealed and shall not be disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety, or liberty of the party or child and determines that the disclosure is in the interest of justice.

SECTION 21. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) In a child custody proceeding in this state, the court may order a party to the proceeding who is in this state to appear before the court in person with or without the child. The court may order any person who is in this state and who has physical custody or control of the child to appear in person with the child.

(2) If a party to a child custody proceeding whose presence is desired by the court is outside this state, the court may order that a notice given pursuant to Section 7 of this Act include a statement directing the party to appear in person with or without the child and informing the party that failure to appear may result in a decision adverse to the party.

(3) The court may enter any order necessary to ensure the safety of the child and of any person ordered to appear under this section.

(4) If a party to a child custody proceeding who is outside this state is directed to appear under subsection (2) of this section or desires to appear personally before the court with or without the child, the court may require another party to pay reasonable and necessary travel and other expenses of the party so appearing and of the child.

ARTICLE 3.

ENFORCEMENT

SECTION 22. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

As used in Sections 22 to 38 of this Act:

(1) "Petitioner" means a person who seeks enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination; and

(2) "Respondent" means a person against whom a proceeding has been commenced for enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination.

SECTION 23. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

Under Sections 22 to 38 of this Act, a court of this state may enforce an order for the return of the child made under the Hague Convention on the Civil Aspects of International Child Abduction as if it were a child custody determination.

SECTION 24. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A court of this state shall recognize and enforce a child custody determination of a court of another state if the latter court exercised jurisdiction in substantial conformity with Sections 1 to 41 of this Act or the determination was made under factual circumstances meeting the jurisdictional standards of Sections 1 to 41 of this Act and the determination has not been modified in accordance with Sections 1 to 41 of this Act.

(2) A court of this state may utilize any remedy available under other law of this state to enforce a child custody determination made by a court of another state. The remedies provided in Sections 22 to 38 of this Act are cumulative and do not affect the availability of other remedies to enforce a child custody determination.

SECTION 25. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A court of this state which does not have jurisdiction to modify a child custody determination may issue a temporary order enforcing:

(a) A visitation schedule made by a court of another state; or

(b) The visitation provisions of a child custody determination of another state that does not provide for a specific visitation schedule.

(2) If a court of this state makes an order under subsection (1)(b) of this section, it shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in Sections 12 to 21 of this Act. The order shall remain in effect until an order is obtained from the other court or the period expires.

SECTION 26. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A child custody determination issued by a court of another state may be registered in this state, with or without a simultaneous request for enforcement, by sending to a court with jurisdiction in this state:

(a) A letter or other document requesting registration;

(b) Two (2) copies, including one (1) certified copy, of the determination sought to be registered, and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified; and

(c) Except as otherwise provided in Section 20 of this Act, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered.

(2) On receipt of the documents required by subsection (1) of this section, the registering court shall:

(a) Cause the determination to be filed as a foreign judgment, together with one (1) copy of any accompanying documents and information, regardless of their form; and

(b) Serve notice upon the persons named pursuant to subsection (1)(c) of this section and provide them with an opportunity to contest the registration in accordance with this section.

(3) The notice required by subsection (2)(b) of this section shall state that:

(a) A registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this state;

(b) A hearing to contest the validity of the registered determination shall be requested within twenty (20) days after service of notice; and

(c) Failure to contest the registration shall result in confirmation of the child custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

(4) A person seeking to contest the validity of a registered order shall request a hearing within twenty (20) days after service of the notice. At that hearing, the court shall confirm the registered order unless the person contesting registration establishes that:

(a) The issuing court did not have jurisdiction under Sections 12 to 21 of this Act;

(b) The child custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under Sections 12 to 21 of this Act; or

(c) The person contesting registration was entitled to notice, but notice was not given in accordance with the standards of Section 7 of this Act, in the proceedings before the court that issued the order for which registration is sought.

(5) If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law and the person requesting registration and all persons served shall be notified of the confirmation.

(6) Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

SECTION 27. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A court of this state may grant any relief normally available under the law of this state to enforce a registered child custody determination made by a court of another state.

(2) A court of this state shall recognize and enforce, but shall not modify, except in accordance with Sections 12 to 21 of this Act, a registered child custody determination made by a court of another state.

SECTION 28. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

If a proceeding for enforcement under Sections 22 to 38 of this Act is commenced in a court of this state and the court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under Sections 12 to 21 of this Act, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

SECTION 29. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A petition under Sections 22 to 38 of this Act shall be verified. Certified copies of all orders sought to be enforced and of any order confirming registration shall be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(2) A petition for enforcement of a child custody determination shall state:

(a) Whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was;

(b) Whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision is entitled to enforcement under Sections 1 to 41 of this Act and, if so, identify the court, the case number, and the nature of the proceeding;

(c) Whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding;

(d) The present physical address of the child and the respondent, if known;

(e) Whether relief in addition to the immediate physical custody of the child and attorney's fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought; and

(f) If the child custody determination has been registered and confirmed under Section 26 of this Act, the date and place of registration.

(3) Upon the filing of a petition, the court shall issue an order directing the respondent to appear in person with or without the child at a hearing and may enter any order necessary to ensure the safety of the parties and the child. The hearing shall be held on the next judicial day after service of the order unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.

(4) An order issued under subsection (3) of this section shall state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate physical custody of the child and the payment of fees, costs, and expenses under Section 33 of this Act, and may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:

(a) The child custody determination has not been registered and confirmed under Section 26 of this Act and that:

1. The issuing court did not have jurisdiction under Sections 12 to 21 of this Act;

2. The child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction to do so under Sections 12 to 21 of this Act; or

3. The respondent was entitled to notice, but notice was not given in accordance with the standards of Section 7 of this Act, in the proceedings before the court that issued the order for which enforcement is sought; or

(b) The child custody determination for which enforcement is sought was registered and confirmed under Section 26 of this Act but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Sections 12 to 21 of this Act.

SECTION 30. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

Except as otherwise provided in Section 32 of this Act, the petition and order shall be served, by any method authorized by the law of this state, upon respondent and any person who has physical custody of the child.

SECTION 31. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) Unless the court issues a temporary emergency order pursuant to Section 15 of this Act, upon a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:

(a) The child custody determination has not been registered and confirmed under Section 26 of this Act and that:

1. The issuing court did not have jurisdiction under Sections 12 to 21 of this Act;

2. The child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Sections 12 to 21 of this Act; or

3. The respondent was entitled to notice, but notice was not given in accordance with the standards of Section 7 of this Act, in the proceedings before the court that issued the order for which enforcement is sought; or

(b) The child custody determination for which enforcement is sought was registered and confirmed under Section 26 of this Act but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under Sections 12 to 21 of this Act.

(2) The court shall award the fees, costs, and expenses authorized under Section 33 of this Act and may grant additional relief, including a request for the assistance of law enforcement officials, and set a further hearing to determine whether additional relief is appropriate.

(3) If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw on adverse inference from the refusal.

(4) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under Sections 22 to 38 of this Act.

SECTION 32. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) Upon the filing of a petition seeking enforcement of a child custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is immediately likely to suffer serious physical harm or be removed from this state.

(2) If the court, upon the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious physical harm or be removed from this state, it may issue a warrant to take physical custody of the child. The petition shall be heard on the next judicial day after the warrant is executed unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant shall include the statements required by subsection (2) of Section 29 of this Act.

(3) A warrant to take physical custody of a child shall:

(a) Recite the facts upon which a conclusion of imminent serious physical harm or removal from the jurisdiction is based;

(b) Direct law enforcement officers to take physical custody of the child immediately; and

(c) Provide for the placement of the child pending final relief.

(4) The respondent shall be served with the petition, warrant, and order immediately after the child is taken into physical custody.

(5) A warrant to take physical custody of a child is enforceable throughout this state. If the court finds, on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.

(6) The court may impose conditions upon placement of a child to ensure the appearance of the child and the child's custodian.

SECTION 33. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) The court may award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

(2) The court shall not assess fees, costs, or expenses against a state unless authorized by law other than Sections 1 to 41 of this Act.

SECTION 34. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

A court of this state shall accord full faith and credit to an order issued by another state and consistent with Sections 1 to 41 of this Act which enforces a child custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction to do so under Sections 12 to 21 of this Act.

SECTION 35. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

A party may move for an expedited appeal from a final order in a proceeding under Sections 22 to 38 of this Act. Unless the court enters a temporary emergency order under Section 15 of this Act, the enforcing court shall not stay an order enforcing a *child custody determination pending appeal.*

SECTION 36. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) In a case arising under Sections 1 to 41 of this Act or involving the Hague Convention on the Civil Aspects of International Child Abduction, the county attorney or other appropriate public official may take any lawful action, including resort to a proceeding under Sections 22 to 38 of this Act or any other available civil proceeding to locate a child, obtain the return of a child, or enforce a child custody determination if there is:

(a) An existing child custody determination;

(b) A request to do so from a court in a pending child custody proceeding;

(c) A reasonable belief that a criminal statute has been violated; or

(d) A reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.

(2) A county attorney or other appropriate public official acting under this section acts on behalf of the court and shall not represent any party.

SECTION 37. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

At the request of a county attorney or other appropriate public official acting under Section 36 of this Act, a peace officer may take any lawful action reasonably necessary to locate a child or a party and assist a county attorney or other appropriate public official with responsibilities under Section 36 of this Act.

SECTION 38. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the county attorney or other appropriate public official and peace officers under Section 36 or 37 of this Act.

ARTICLE 4.

MISCELLANEOUS PROVISIONS

SECTION 39. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

In applying and construing Sections 1 to 41 of this Act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 40. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) A motion or other request for relief made in a child custody proceeding or to enforce a child custody determination which was commenced before the effective date of Sections 1 to 41 of this Act is governed by the law in effect at the time the motion or other request was made.

(2) Custody decrees previously registered in this state under the provisions of KRS 403.400 to 403.620 shall be deemed registered under the provisions of Sections 1 to 41 of this Act.

SECTION 41. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 41 of this Act may be cited as the Uniform Child Custody Jurisdiction and Enforcement Act.

Section 42. KRS 403.270 is amended to read as follows:

(1) (a) As used in this chapter and KRS 405.020, unless the context requires otherwise, "de facto custodian" means a person who has been shown by clear and convincing evidence to have been the primary caregiver for, and financial supporter of, a child who has resided with the person for a period of six (6) months or more if the child is under three (3) years of age and for a period of one (1) year or more if the child is three (3) years of age or older or has been placed by the Department for Community Based Services. Any period of time after a legal proceeding has been commenced by a parent seeking to regain custody of the child shall not be included in determining whether the child has resided with the person for the required minimum period.

(b) A person shall not be a de facto custodian until a court determines by clear and convincing evidence that the person meets the definition of de facto custodian established in paragraph (a) of this subsection. Once a court determines that a person meets the definition of de facto custodian, the court shall give the person the same standing in custody matters that is given to each parent under this section and KRS 403.280, 403.340, 403.350, *Section 12 of this Act*[~~403.420~~], and 405.020.

(2) The court shall determine custody in accordance with the best interests of the child and equal consideration shall be given to each parent and to any de facto custodian. The court shall consider all relevant factors including:

(a) The wishes of the child's parent or parents, and any de facto custodian, as to his custody;

(b) The wishes of the child as to his custodian;

(c) The interaction and interrelationship of the child with his parent or parents, his siblings, and any other person who may significantly affect the child's best interests;

(d) The child's adjustment to his home, school, and community;

(e) The mental and physical health of all individuals involved;

(f) Information, records, and evidence of domestic violence as defined in KRS 403.720;

(g) The extent to which the child has been cared for, nurtured, and supported by any de facto custodian;

(h) The intent of the parent or parents in placing the child with a de facto custodian; and

(i) The circumstances under which the child was placed or allowed to remain in the custody of a de facto custodian, including whether the parent now seeking custody was previously prevented from doing so as a result of domestic violence as defined in KRS 403.720 and whether the child was placed with a de facto custodian to allow the parent now seeking custody to seek employment, work, or attend school.

(3) The court shall not consider conduct of a proposed custodian that does not affect his relationship to the child. If domestic violence and abuse is alleged, the court shall determine the extent to which the domestic violence and abuse has affected the child and the child's relationship to both parents.

(4) The abandonment of the family residence by a custodial party shall not be considered where said party was physically harmed or was seriously threatened with physical harm by his or her spouse, when such harm or threat of harm was causally related to the abandonment.

(5) The court may grant joint custody to the child's parents, or to the child's parents and a de facto custodian, if it is in the best interest of the child.

(6) If the court grants custody to a de facto custodian, the de facto custodian shall have legal custody under the laws of the Commonwealth.

Section 43. KRS 403.280 is amended to read as follows:

(1) A party to a custody proceeding may move for a temporary custody order. The motion must be supported by an affidavit as provided in KRS 403.350. The court may award temporary custody under the standards of KRS 403.270 after a hearing, or, if there is no objection, solely on the basis of the affidavits.

(2) If a proceeding for dissolution of marriage or legal separation is dismissed, any temporary custody order is vacated unless a parent or the child's custodian moves that the proceeding continue as a custody proceeding and the court finds, after a hearing, that the circumstances of the parents and the best interests of the child require that a custody decree be issued.

(3) If a custody proceeding commenced in the absence of a petition for dissolution of marriage or legal separation under ***subsection (1)(a) or (1)(b) of Section 12 of this Act***[~~KRS 403.420(1)(a) or (b)~~] is dismissed, any temporary custody order is vacated.

(4) If a court determines by clear and convincing evidence that a person is a de facto custodian, the court shall join that person in the action, as a party needed for just adjudication under Rule 19 of the Kentucky Rules of Civil Procedure.

Section 44. KRS 403.740 is amended to read as follows:

(1) If, upon review of the petition, as provided for in KRS 403.735, the court determines that the allegations contained therein indicate the presence of an immediate and present danger of domestic violence and abuse, the court shall issue, upon proper motion, ex parte, an emergency protective order:

(a) Restraining the adverse party from any contact or communication with the petitioner except as directed by the court;

(b) Restraining the adverse party from committing further acts of domestic violence and abuse;

(c) Restraining the adverse party from disposing of or damaging any of the property of the parties;

(d) Directing the adverse party to vacate the residence shared by the parties to the action;

(e) Utilizing the criteria set forth in KRS 403.270, 403.320, and ***Section 12 of this Act***[~~403.420~~], grant temporary custody; or

(f) Enter other orders the court believes will be of assistance in eliminating future acts of domestic violence and abuse; or any combination thereof.

(2) Except as provided in KRS 403.036, if the court issues an emergency protective order pursuant to subsection (1) of this section, the court shall not order or refer the parties to mediation for resolution of the issues alleged in the petition filed pursuant to KRS 403.735.

(3) An emergency protective order issued in accordance with this section shall be issued without bond being required of the petitioner.

(4) An emergency protective order issued in accordance with this section shall be effective for a period of time fixed in the order, but not to exceed fourteen (14) days. Upon the issuance of an emergency protective order, a date for a full hearing, as provided for in KRS 403.745, shall be fixed not later than the expiration date of the emergency protective order. An emergency protective order shall be reissued for a period not to exceed fourteen (14) days if service has not been made on the adverse party by the fixed court date and time or as the court determines is necessary for the protection of the petitioner.

(5) The adverse party shall be personally served with a copy of the emergency protective order, a copy of the notice setting the full hearing, and a copy of the petition. Service may be made in the manner and by the persons authorized to serve

subpoenas under the provisions of Rule 45.03 of the Rules of Civil Procedure. No service fee shall be assessed to the petitioner.

Section 45. KRS 403.750 is amended to read as follows:

(1) Following the hearing provided for under KRS 403.740 and 403.745, the court, if it finds from a preponderance of the evidence that an act or acts of domestic violence and abuse have occurred and may again occur, may:

(a) Restrain the adverse party from any contact or communication with the petitioner except as directed by the court;

(b) Restrain the adverse party from committing further acts of domestic violence and abuse;

(c) Restrain the adverse party from disposing of or damaging any of the property of the parties;

(d) Direct the adverse party to vacate the residence shared by the parties to the action;

(e) Utilizing the criteria set forth in KRS 403.270, 403.320, and ***Section 12 of this Act***[~~403.420~~], award temporary custody;

(f) Utilizing the criteria set forth in KRS 403.211, 403.212, and 403.213, award temporary support;

(g) Direct that either or both parties receive counseling services available in the community, except that the court shall not order or refer the parties to participate in mediation for resolution of the issues alleged in the petition filed pursuant to KRS 403.715 to 403.785; or

(h) Enter other orders the court believes will be of assistance in eliminating future acts of domestic violence and abuse.

(2) Any order entered pursuant to this section shall be effective for a period of time, fixed by the court, not to exceed three (3) years and may be reissued upon expiration for an additional period of up to three (3) years. The number of times an order may be reissued shall not be limited. With respect to whether an order should be reissued, any party may present to the court testimony relating to the importance of the fact that acts of domestic violence or abuse have not occurred during the pendency of the order.

(3) Upon proper filing of a motion, either party may seek to amend a domestic violence order.

(4) When temporary child support is granted under the provisions of this section, the court shall enter an order detailing how the child support is to be paid and collected. The enforcement procedures for child support orders, entered pursuant to KRS 403.211, 403.212, and 403.213, including but not limited to 403.215, shall be available to temporary child support orders issued under KRS 403.715 to 403.785.

(5) Any order entered pursuant to this section restraining a party or parties to an action shall be issued without bond being required of the petitioner.

Section 46. The following KRS sections are repealed:

403.400 Purposes -- Construction.
403.410 Definitions.
403.420 Prerequisites to jurisdiction -- Commencement of proceeding.
403.430 Notice and opportunity to be heard.
403.440 Notice to persons outside state -- Exception.
403.450 Simultaneous proceedings in other states.
403.460 Inconvenient forum.
403.470 Jurisdiction declined by reason of conduct.
403.480 Information under oath to be submitted to court -- Continuing duty.
403.490 Joinder of parties.
403.500 Court appearance of parties and the child.
403.510 Binding force and res judicata effect of custody decree.
403.520 Recognition of out-of-state decree.
403.530 Modification of decree of another state.
403.540 Filing and enforcement of custody decree of another state.
403.550 Registry of out-of-state custody decrees and proceedings.
403.560 Certified copies of custody decree.
403.570 Taking testimony in another state.
403.580 Hearings and studies in another state -- Orders to appear.

403.590 Assistance to courts of other states.
403.600 Preservation of court records -- Use in other states.
403.610 Request for court records of another state.
403.620 International application.
403.630 Short title.

HB 303, AN ACT relating to sexual offenders.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 17.495 is amended to read as follows:

(1) No registrant, as defined in KRS 17.500, who is placed on probation, parole, or any form of supervised release, shall reside within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, or licensed day care facility. The measurement shall be taken in a straight line from the nearest wall of the school to the nearest wall of the registrant's place of residence.

(2) No registrant, as defined in KRS 17.500, nor any person residing outside of Kentucky who would be required to register under KRS 17.510 if the person resided in Kentucky shall be on the clearly defined grounds of a high school, middle school, elementary school, preschool, or licensed day care facility, except:

(a) To attend a pre-scheduled conference with certified personnel of the school in regard to a child, step-child, or ward of the person;

(b) To drop off or pick up a child, step-child, or ward of the person if the school or the school district does not provide transportation at the time of the drop off or pick up;

(c) To attend a nonschool civic, cultural, or religious function occurring on school grounds at a time when there are no school-sponsored functions simultaneously occurring on the schools grounds; or

(d) To attend school as an enrolled student at that school.

Section 2. KRS 17.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 17.320 to 17.340 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500).

(2) Any public official or employee who knowingly or intentionally makes, or causes to be made, a false return of information to the department shall be punished by confinement in jail for not more than ninety (90) days, by a fine not exceeding five hundred dollars ($500), or both.

(3) (a) Any child-care center which violates KRS 17.165(4) or child-care provider that violates KRS 17.165(5) may be liable for license or certification revocation and the imposition of a civil penalty of not less than five hundred dollars ($500) and not more than one thousand dollars ($1,000) to be imposed and collected by the Cabinet for Families and Children; and

(b) In addition to penalties listed in this subsection, any child-care center which violates KRS 17.165(4) or child-care provider that violates KRS 17.165(5) shall be fined not less than five hundred dollars ($500) or more than one thousand dollars ($1,000).

(4) Any person who violates the provisions of subsection (2) of Section 1 of this Act shall be guilty of a Class A misdemeanor.

Section 3. KRS 525.090 is amended to read as follows:

(1) A person is guilty of loitering when he:

(a) Loiters or remains in a public place for the purpose of gambling with cards, dice or other gambling paraphernalia, except that the provisions of this section shall not apply if the person is participating in charitable gaming defined by KRS 238.505; or

(b) Loiters or remains in a public place for the purpose of unlawfully using a controlled substance; or

(c) Loiters or remains in or about a school, college or university building or grounds, not having any reason or relationship involving custody of or responsibility for a pupil or student or any other specific legitimate reason for being there and not having written permission from anyone authorized to grant the same; or

(d) Loiters or remains in any transportation facility, unless specifically authorized to do so, for the purpose of soliciting or engaging in any business, trade or commercial transactions involving the sale of merchandise or services.

(2) Loitering is a violation ***unless the defendant is a person subject to the provisions of subsection (2) of Section 1 of this Act and violates subsection (1)(c) of this section in which case it is a Class A misdemeanor***.

The Committee Substitute to **HB 303** is as follows:

HB 303, AN ACT relating to sexual offenders.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 17.495 is amended to read as follows:

(1) *(a)* No registrant, as defined in KRS 17.500,~~[who is placed on probation, parole, or any form of supervised release,]~~ shall reside within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, or licensed day care facility. The measurement shall be taken in a straight line from the nearest wall of the school to the nearest wall of the registrant's place of residence.

(b) The provisions of this subsection shall not apply to a person under the age of eighteen (18) years who, prior to becoming a registrant, resided at a location within one thousand (1,000) feet of a school specified in this subsection with his or her parents or guardian and who, following becoming a registrant, returns to the same location to reside with his or her parents or guardian. Upon reaching the age of eighteen (18) years the person covered by this paragraph shall comply with the provisions of this subsection and remove himself or herself to a location in excess of one thousand (1,000) feet from a school specified in this subsection.

(2) No registrant, as defined in KRS 17.500, nor any person residing outside of Kentucky who would be required to register under KRS 17.510 if the person resided in Kentucky, shall be on the clearly defined grounds of a high school, middle school, elementary school, preschool, or licensed day care facility, except:

(a) To attend a prescheduled conference with certified personnel of the school in regard to a child, stepchild, or ward of the person;

(b) To drop off or pick up a child, stepchild, or ward of the person;

(c) To attend a nonschool civic, cultural, or religious function occurring on school grounds at a time when there are no school-sponsored functions simultaneously occurring on the school grounds;

(d) To attend school as an enrolled student at that school;

(e) To attend a prescheduled school performance, athletic competition, or academic competition in which a child, stepchild, or ward of the person is actively participating;

(f) To attend a graduation or award ceremony in which a child, stepchild or ward of the person is actively participating;

(g) To work on a construction or maintenance project pursuant to a contract with the person's employer or union during the time of actual employment, provided that the person's location on the grounds is limited to the area required by such employment;

(h) To perform pickup and delivery services on the grounds pursuant to a contract with the person's employer or union, provided that the person's time and location on the grounds are limited to those which are required for the pickup or delivery; or

(i) With the advance written permission of the school principal, the school board, or the day care director which has been given after full disclosure of the person's status as a registrant and all registrant information as required in KRS 17.500.

Section 2. KRS 17.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 17.320 to 17.340 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500).

(2) Any public official or employee who knowingly or intentionally makes, or causes to be made, a false return of information to the department shall be punished by confinement in jail for not more than ninety (90) days, by a fine not exceeding five hundred dollars ($500), or both.

(3) (a) Any child-care center which violates KRS 17.165(4) or child-care provider that violates KRS 17.165(5) may be liable for license or certification revocation and the imposition of a civil penalty of not less than five hundred dollars ($500) and not more than one thousand dollars ($1,000) to be imposed and collected by the Cabinet for Families and Children; and

(b) In addition to penalties listed in this subsection, any child-care center which violates KRS 17.165(4) or child-care provider that violates KRS 17.165(5) shall be fined not less than five hundred dollars ($500) or more than one thousand dollars ($1,000).

(4) Any person who violates the provisions of subsection (2) of Section 1 of this Act shall be guilty of a Class A misdemeanor.

HB 359, AN ACT relating to controlled substances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.992 is amended to read as follows:

[~~(1)~~]Other provisions of law notwithstanding, any person who is convicted of any violation of this chapter who was at the time of the commission of the offense in possession of a firearm, shall:

(1)[~~(a)~~]Be penalized one (1) class more severely than provided in the penalty provision pertaining to that offense if it is a felony; or

(2)[~~(b)~~] Be penalized as a Class D felon if the offense would otherwise be a misdemeanor.

[~~(2) The provisions of this section shall not apply to a violation of KRS 218A.210.~~]

Section 2. The following KRS section is repealed:

218A.210 Controlled substances may be possessed only in original container -- Penalties.

The Committee Substitute to **HB 359** is as follows:

HB 359, AN ACT relating to controlled substances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.210 is amended to read as follows:

(1) A person to whom or for whose use any controlled substance has been prescribed, sold, or dispensed, by a practitioner or other person authorized under this chapter, may lawfully possess it only in the container in which it was delivered to him by the person selling or dispensing the same.

(2) Violation of subsection (1) of this section is a Class B misdemeanor for the first offense and a Class A misdemeanor for subsequent offenses.

(3) Any charge for violation of this section shall be dismissed with prejudice by the court and the defendant's arrest, court, and other records relating to the case shall be expunged without necessity of filing a motion if the defendant presents to the court a valid prescription for the substance or substances possessed, or evidence of a valid prescription for the substance or substances possessed.

HB 389, AN ACT relating to inmates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 454.415 is amended to read as follows:

(1) (a) No action shall be brought by ***or on behalf of*** an inmate, with respect to a prison disciplinary proceeding or challenges to a sentence calculation or challenges to custody credit ***or to prison conditions***, until administrative remedies as set forth in Department of Corrections policies and procedures are exhausted.

(b) Administrative remedies shall be exhausted even if the remedy the inmate seeks is unavailable.

(c) The inmate shall attach to any complaint filed documents verifying that administrative remedies have been exhausted.

[~~(2) In any civil action brought by an inmate, the court may continue the action for a period of time not to exceed one hundred and eighty (180) days in order to require the inmate to exhaust any plain, speedy, and effective administrative remedies available, if the court believes that such a requirement would be appropriate and in the interests of justice.~~]

The Committee Substitute to **HB 389** is as follows:

HB 389, AN ACT relating to inmates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 454.415 is amended to read as follows:

(1)[~~(a)~~]No action shall be brought by ***or on behalf of*** an inmate, with respect to a prison disciplinary proceeding or challenges to a sentence calculation or challenges to custody credit ***or to prison conditions***, until administrative remedies as set forth in Department of Corrections policies and procedures are exhausted.

(2)[~~(b)~~] Administrative remedies shall be exhausted even if the remedy the inmate seeks is unavailable.

(3)[~~(c)~~]The inmate shall attach to any complaint filed documents verifying that administrative remedies have been exhausted.

[~~(2) In any civil action brought by an inmate, the court may continue the action for a period of time not to exceed one hundred and eighty (180) days in order to require the inmate to exhaust any plain, speedy, and effective administrative remedies available, if the court believes that such a requirement would be appropriate and in the interests of justice.~~]

Calendar

HB 274, 392, 203, 162, 163, 226, 289, 325, and **340** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Senate Message

Announcing passage: **SB 39, 84, 87,** and **106** (2:10 p.m.)

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules Meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 203, 226, 274, 325, 340, 392,** and **157** have been posted for passage in the Regular Orders of the Day for February 5, 2004.

Orders of the Day

HB 18 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 18** be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See February 4, 2004, roll call on **HB 18** - Appendix.)

HB 18 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 18** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 63 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved that **HCR 63** be adopted.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 4, 2004, roll call on **HCR 63** - Appendix.)

HCR 63 was adopted.

Representative Webb moved that the vote by which **HCR 63** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 341, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jenkins moved the adoption of the Committee Substitute to **HB 341**. Agreed.

Representative Jenkins moved that **HB 341**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 4, 2004, roll call on **HB 341** - Appendix.)

HB 341, by way of Committee Substitute, was passed and the title agreed to.

Representative Jenkins moved that the vote by which **HB 341**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 326, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of the Committee Substitute to **HB 326**. Agreed.

Representative Thomas moved that **HB 326**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 92, Nays 1**. (See February 4, 2004, roll call on **HB 326** - Appendix.)

HB 326, by way of Committee Substitute, was passed and the title agreed to.

Representative Thomas moved that the vote by which **HB 326**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Callahan moved the adoption of the following **HR 109**:

HR 109, A RESOLUTION supporting the electric generation acquisition plans of Cinergy's Union Light, Heat and Power Company.

WHEREAS, the Kentucky public service Commission has determined that the most cost-effective and reliable means of providing electric generation to the citizens of northern Kentucky within the service territory of Cinergy's Union Light, Heat and Power Company (Cinergy/ULH&P) is through utility-owned electric generation facilities; and

WHEREAS, Cinergy/ULH&P has initiated a plan to acquire 1105 megawatts of electric generation facilities from its parent, Cinergy's Cincinnati Gas and Electric Company (Cinergy/CG&E), at net book value, and to fully dedicate these facilities to serving the electric needs of its service territory; and

WHEREAS, these electric generating facilities include a 69% interest in the East Bend Station, a 648 megawatt coal-burning facility located in Rabbit Hash, Kentucky; Miami Fort Unit 6, a 168 megawatt coal-burning unit located on the Ohio River in North Bend, Ohio; and Woodsdale Station, a 490 megawatt dual-fuel natural gas/propane-fired facility located in Butler County, Ohio; and

WHEREAS, the electric generation facilities to be acquired have been developed to meet, in part, the electric supply needs of the customers of Northern Kentucky, and have continually served these needs since the facilities began operation; and

WHEREAS, Cinergy/ULH&P has proposed obtaining additional benefits associated with jointly dispatching its acquired generation along with the remaining generation facilities of Cinergy/CG&E, and making such benefits available to Northern Kentucky electric customers; and

WHEREAS, Cinergy/ULH&P has proposed to enter into an agreement with Cinergy/CG&E under which Cinergy/CG&E will provide back-up power in the event of outages to Cinergy/ULH&P's acquired generation facilities in order to ensure reliable electric supplies for Northern Kentucky customers; and

WHEREAS, the acquisition of the proposed generation facilities at net book value is significantly below the cost of constructing like facilities, and therefore effectively represents a discount to Northern Kentucky customers; and

WHEREAS, Cinergy/ULH&P has demonstrated that its generation acquisition plan is the least-cost alternative for meeting the long-term electric supply requirements of its customers; and

WHEREAS, Cinergy/ULH&P's generation acquisition plan continues the freeze on retail customer rates through December 31, 20006; and

WHEREAS, the Kentucky Public Service Commission has approved and supports Cinergy/ULH&P's proposal to acquire such generation facilities; and

WHEREAS, dedicated electric generation facilities provide for the highest level of reliability in providing electric supply to Cinergy/ULH&P's customers; and

WHEREAS, dedicated electric generation facilities support the Kentucky coal industry;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives of the General Assembly of the Commonwealth of Kentucky formally supports Cinergy/ULH&P's acquisition of 1105 megawatts of electric generation facilities, its proposal to jointly dispatch this generation with that of Cinergy/CG&E, and its proposal to receive back-up power from Cinergy/CG&E.

Section 2. The House of Representatives of the General Assembly of the Commonwealth of Kentucky supports ULH&P's acquisition of the assets at net book value, which is significantly less than the cost of constructing like facilities, thus assuring the people of Kentucky first access to baseload coal-fired power produced at a state-of-the- art electric generation facility located in the commonwealth of Kentucky.

Section 3. The House of Representatives of the General Assembly of the Commonwealth of Kentucky urges the Federal Regulatory Commission and the Securities and Exchange Commission to grant all necessary approvals to effect Cinergy/ULH&P's generation acquisition plan without delay.

There being no objection, **HR 109** was adopted.

Representative Moberly moved the adoption of the following **HR 117**:

HR 117, A RESOLUTION memorializing Nannie Lee Sallee Lackey and adjourning the House of Representatives in her honor.

WHEREAS, Nannie Lee Sallee Lackey was born a native daughter of the Commonwealth of Kentucky in Madison County in 1899, and resided there her entire life; and

WHEREAS, Nannie Lee Sallee Lackey was an active member of her community serving in the Society of Boonesboro and the Madison County Republican Women's Club; and

WHEREAS, Nannie Lee Sallee Lackey garnered notoriety through exercising her right of suffrage and voting in every single general election since 1920, including the November, 2003 general election; and

WHEREAS, Nannie Lee Sallee Lackey served the Lord sincerely and lived by her convictions, being an active and faithful member of the First Baptist Church since January 1, 1930; and prior to her death, she was the oldest living member of the church; and

WHEREAS, Nannie Lee Sallee Lackey was the loving and beloved wife of the late A.J. Lackey, and the loving mother of Mary Ann Hanlon and the late Jackson B. Lackey; and

WHEREAS, Nannie Lee Sallee Lackey died on January 26, 2004; and

WHEREAS, for being so active in her community for so many years, Nannie Lee Sallee Lackey will always be remembered for her perseverance in life; and for being so loyal to the church and expressing that devotion in her living, she will always be remembered for her faith in God;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow to the family of Nannie Lee Sallee Lackey, and does hereby remember and pause in reverence of a life lived with faith in God and service to community.

Section 2. When the House of Representatives adjourns this day, it does so in the warmest remembrance suitable for this remarkable woman.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Representative Harry Moberly for distribution to the family of Nannie Lee Sallee Lackey.

There being no objection, **HR 117** was adopted.

Representative Baugh moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Baugh moved the adoption of the following **Legislative Citation No. 21**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory and honor of Lewis "Shine" Richardson of Russellville, Kentucky, and joins with Representative Sheldon Baugh in expressing deepest sympathy to the Richardson Family and all who share in the profound loss on the passing of this esteemed citizen. The son of the late William F. Richardson and Latimer Hines Richardson, he was preceded in death by his beloved wife, Frances Mason Richardson. He is survived by his cherished siblings, Joe Morton Richardson, Charles "Jack" Richardson, Sue Geisler, and Jean Richardson; several nieces and nephews; and, a host of other family members, friends and loved ones. An honorable World War II veteran of the United States Army and owner of Shines Signs in Russellville, Kentucky, Mr. Richardson was an active member of the American Legion Post 29 and the Logan County Fair Board; was the coordinator of the Beech Creek Reunion for 21 years; and, organized the Logan County Little League Program in the 1950's. This esteemed citizen is remembered on this day for the many and generous contributions he made to his family and community. Lewis "Shine" Richardson will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, Kentucky, this fourth day of February, in the year two thousand and four.

Legislative Citation No. 12 was adopted without objection.

Representative Adkins moved that the rules be suspended for introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 452, by Representative Bather: AN ACT relating to the creation of the Kentucky Center for African-American Studies and Research.

HB 453, by Representative Yonts: AN ACT relating to the Kentucky assigned claims bureau and declaring an emergency.

HB 454, by Representative Hoffman: AN ACT relating to the Disaster Relief Funding Program.

HB 455, by Representative Burch: AN ACT relating to a health insured's right to obtain his or her liability for a CPT code from the insured.

HB 456, by Representatives Damron and DeWeese: AN ACT relating to medical licensure.

HB 457, by Representative Gray: AN ACT relating to the tax collection duties of the sheriff in counties containing a consolidated local government and declaring an emergency.

HB 458, by Representative Belcher: AN ACT relating to local taxation.

HJR 119, by Representative Bather: A JOINT RESOLUTION directing the Historic Properties Advisory Commission to remove the Jefferson Davis statue from the Capitol Rotunda and move it to the Kentucky History Center where it can be displayed for its historical value and context in history.

HCR 122, by Representative Adkins: A CONCURRENT RESOLUTION confirming the appointment of Jana P. Vice to the Kentucky Board of Education.

HCR 120, by Representative Adkins: A CONCURRENT RESOLUTION confirming the appointment of Bonnie Lash Freeman to the Kentucky Board of Education.

HCR 123, by Representative Adkins: A CONCURRENT RESOLUTION confirming the appointment of David L. Webb to the Kentucky Board of Education.

HCR 121, by Representative Adkins: A CONCURRENT RESOLUTION confirming the appointment of David B. Rhodes to the Kentucky Board of Education.

HCR 124, by Representatives Pasley and J. Arnold: A CONCURRENT RESOLUTION extending the reporting deadline for the Off-Road Motorcycle and All-Terrain Vehicle Task Force.

HR 125, by Representative Hoffman: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Charles Kavanaugh Hamilton.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Education: **HB 425, 434**

Motions, Petitions, and Communications (Continued)

Representative Miller moved to withdraw **HB 228**. Agreed.

Representative Barrows moved to withdraw **HB 449**. Agreed.

Representative Stein moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Stein moved that she be recorded as voting "yea" on **HB 89**. Agreed.

Representative Sims moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Sims moved that she be recorded as voting "yea" on **HB 341**. Agreed.

Representative Kerr moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Kerr moved that he be recorded as voting "yea" on **HB 18**. Agreed.

Representative Geveden moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Geveden moved that he be recorded as voting "yea" on **HB 350, 8,** and **HCR 78**. Agreed.

Representative Higdon moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Higdon moved that he be recorded as voting "yea" on **HB 341**. Agreed.

Representative Thomas moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Thomas moved that he be recorded as voting "yea" on **HB 18**. Agreed.

Representative Horlander moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Horlander moved that he be recorded as voting "yea" on **HB 263, 37,** and **126**. Agreed.

Representative Reinhardt moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" on **HB 22, 319, 195,** and **HR 111**. Agreed.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 325**, by Representative Crall:

HB 325, On page 2, line 5, after "*successor*" by inserting "*; however, all provisions herein shall be suspended for one hundred eighty (180) days upon the swearing in of a new Governor, becoming effective on the one hundred eighty-first day of a new Governor's term*".

Floor Amendment No. 2 to the Committee Substitute to **HB 325**, by Representative Crall:

HB 325, On page 2, line 3, after "*renew*" by deleting "*sixty (60)*" and inserting in lieu thereof "*one hundred eighty (180)*".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 18, Representative Meeks

HB 36, Representative Embry

HB 207, Representatives Simpson and Rader

HB 274, Representative B. Smith

HB 309, Representative Embry

HB 339, Representatives Pullin and J. Adams

HB 390, Representative Burch

HB 404, Representative A. Arnold

HB 429, Representative Yonts

HCR 112, Representative Bratcher

HJR 113, Representative J. Adams

Announcements

The following meetings were announced:

Majority Caucus Meeting: Upon adjournment, Speaker's Office

Committee on Elections, Constitutional Amendments, and Intergovernmental Relations: Canceled, Thursday, February 5, 2004

Committee on Agriculture and Small Business: Thursday, February 5, 2004, 12:00 Noon

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 2:00 p.m., Thursday, February 5, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 2:00 p.m., Thursday, February 5, 2004, was adopted by voice vote.

THURSDAY, FEBRUARY 5, 2004

TWENTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Jack Brewer, First United Methodist Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Marzian and Nunn.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 4, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage: **SB 88** and **100** (2:10 p.m.)

Introduction of Bills and Resolutions

HB 459, by Representative Collins: AN ACT relating to consumer protection.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **HB 453, 455**

Education: **HB 452, HCR 120, 121, 122, 123**

Health and Welfare: **HB 456**

Local Government: **HB 457, 458**

Seniors, Military Affairs, and Public Safety: **HB 454**

State Government: **HJR 119**

Transportation: **HCR 124, SB 39, 84, 87, 106**

House Floor: **HR 125**

Report of Committees

The Committee on Health and Welfare reported **HB 261** and **HB 321**, with Committee Substitute attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 261, AN ACT relating to school beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, unless the context requires otherwise:

- ***(a) "School day" means the period of time between the arrival of the first student at the school building and the end of the last instructional period;***
- ***(b) "Healthy beverage" means water, one hundred percent (100%) fruit juice, lowfat milk, and any beverage that contains no more than ten (10) grams of sugar per serving.***

(2) During a school day, an elementary school shall not sell, whether through vending machines, school stores, canteens,

or fundraisers by students, teachers, or groups, or through any other means, soda waters as defined in Appendix B to 7 C.F.R. Part 210.

(3) During a school day in a middle school and high school, at least seventy-five percent (75%) of the beverages offered for sale through vending machines, school stores, canteens, or fundraisers by students, teachers, or groups, or through any other means, shall consist of healthy beverages, except that no beverages may be sold during the breakfast and lunch serving periods in competition with the School Breakfast Program or National School Lunch Program.

(4) Healthy beverages shall not be sold at a price higher than any other beverages.

Section 2. KRS 156.160 is amended to read as follows:

(1) With the advice of the Local Superintendents Advisory Council, the Kentucky Board of Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:

(a) Courses of study for the different grades and kinds of common schools identifying the common curriculum content directly tied to the goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and 158.6453 and distributed to local school districts and schools. They shall include the following: the courses of study for students shall include American sign language which shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law;

(b) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;

(c) The minimum requirements for high school graduation in light of the expected outcomes for students and schools set forth in KRS 158.6451. Student scores from any assessment administered under KRS 158.6453 that are determined by the National Technical Advisory Panel to be valid and reliable at the individual level shall be included on the student transcript. The National Technical Advisory Panel shall submit its determination to the commissioner of education and the Legislative Research Commission;

(d) Taking and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number or whose parents or guardians choose not to disclose the Social Security number for the student;

(e) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the Kentucky Board of Education shall adopt the Uniform State Building Code;

(f) Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The administrative regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The administrative regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the Kentucky Board of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Kentucky Board of Education;

(g) A vision examination by an optometrist or ophthalmologist that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence that a vision examination that meets the criteria prescribed by the Kentucky Board of Education has been performed. This evidence shall be submitted to the school no later than January 1 of the first year that a three (3), four (4), five (5), or six (6) year-old child is enrolled in a public school, public preschool, or Head Start program;

(h) The transportation of children to and from school;

(i) The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(j) The preparation of budgets and salary schedules for the several school districts under the management and control of the Kentucky Board of Education;

(k) A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and

(l) The disposal of real and personal property owned by local boards of education.

(2) (a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may

approve the request when the school district or school has demonstrated circumstances that may include but are not limited to the following:

1. An alternative approach will achieve the same result required by the administrative regulation;
2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or
3. There is a finding of good cause for the waiver.

(b) The following shall not be subject to waiver:

1. Administrative regulations relating to health and safety;
2. Administrative regulations relating to civil rights;
3. Administrative regulations required by federal law; and
4. Administrative regulations promulgated in accordance with KRS 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to measurement of performance outcomes and determination of successful districts or schools, except upon issues relating to the grade configuration of schools.

(c) Any waiver granted under this subsection shall be subject to revocation upon a determination by the Kentucky Board of Education that the school district or school holding the waiver has subsequently failed to meet the intent of the waiver.

(3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the Kentucky Board of Education and be certified upon application to the board by such schools.

(4) Any public school that violates any provision of Section 1 of this Act shall be subject to a penalty to be assessed by the commissioner of education as follows:

(a) The first violation shall result in a fine of no less than one (1) week's revenue from the sale of the beverage;

(b) Subsequent violations shall result in a fine of no less than one (1) month's revenue from the sale of the beverage;

(c) "Habitual violations," which means five (5) or more violations within a six (6) month period, shall result in a six (6) month ban on beverage sales for the violating school; and

(d) Revenue collected as a result of the fines in this subsection shall be transferred to the food service fund of the local school district.

HB 321, AN ACT relating to the practice of dentistry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216.940 is amended to read as follows:

As used in KRS 216.940 to 216.945:

(1) "Charitable health care provider" means any person, agency, clinic, or facility licensed or certified by the Commonwealth or under a comparable provision of law of another state, territory, district, or possession of the United States, engaged in the rendering of medical ***or dental*** care without compensation or charge, and without expectation of compensation or charge, to the individual, without payment or reimbursement by any governmental agency or insurer. "Charitable health care provider" only means those persons, agencies, clinics, or facilities engaging in primary care ***or dentistry*** and performing no invasive or surgical procedures.

(2) "Regularly practice" means to practice for more than sixty (60) days within any ninety (90) day period.

(3) "Sponsoring organization" means any organization, with an established relationship with a practicing entity, that organizes or arranges for the voluntary provision of health care services in the state.

Section 2. KRS 304.40-075 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Charitable health care provider" means any person, agency, clinic, or facility licensed or certified by the Commonwealth, or under a comparable provision of law of another state, territory, district, or possession of the United States, engaged in the rendering of medical ***or dental*** care without compensation or charge, and without expectation of compensation or charge, to the individual, without payment or reimbursement by any governmental agency or insurer. "Charitable health care provider" only means those persons, agencies, clinics, or facilities engaging in primary care medicine ***or dentistry*** and performing no invasive or surgical procedures;

(b) "Medical malpractice insurer" means every person or entity engaged as principal and as indemnitor, surety, or contractor in the business of entering into contracts to provide medical professional liability insurance, except an entity in the business of providing such medical professional liability insurance only to itself or its affiliated subsidiary, or parent corporation, or subsidiaries of its parent corporations; and

(c) "Medical professional liability insurance" means insurance to cover liability incurred as a result of the hands-on providing of medical professional services directly to patients by an insured in the treatment, diagnosis, or prevention of patient illness, disease, or injury.

(2) Insurers offering medical professional liability insurance in the Commonwealth shall make available, as a condition of doing business in the Commonwealth pursuant to this chapter, medical professional liability insurance for charitable health care providers and persons volunteering to perform medical services for charitable health care providers, with the same coverage limits made available to its other insureds.

(3) (a) Premiums for policies issued under subsection (2) of this section shall be paid by the Commonwealth from the general fund upon written application for payment of the premium by the health care provider wishing to offer charitable services.

(b) The Department of Insurance shall, through promulgation of administrative regulations pursuant to KRS Chapter 13A, establish reasonable guidelines for the registration of charitable health care providers. The guidelines shall require the provider to supply, at a minimum, the following information:

1. Name and address of the charitable health care provider;
2. Number of employees of the charitable health care provider who will be rendering medical care without compensation or charge and without expectation of compensation or charge, and who will be covered under the policy issued under subsection (2) of this section;
3. The expected number of patients to be provided charitable health care services in the year for which the insurer will offer malpractice coverage;
4. The charitable health care provider's acknowledgment that the insurer's risk management and loss prevention policies shall be followed;
5. A copy of the registration filed with the Cabinet for Health Services under KRS 216.941; and
6. A copy of the medical malpractice policy, declaration page, and any other documentation the commissioner may deem necessary to determine the proper amount of premiums and taxes to be reimbursed.

(c) Persons insured under this section shall be required to comply with the same risk management and loss prevention policies which the insurer imposes upon its other insureds.

(d) Any premium refund for medical professional liability insurance issued under subsection (2) of this section received for any reason by the charitable health care provider shall be promptly remitted to the department for transmittal to the general fund.

(4) This section shall only apply to charitable health care providers and persons volunteering to perform medical services for charitable health care providers who are not otherwise covered by any policy of medical professional liability insurance for the charitable health care services provided, and that meet the terms for eligibility established pursuant to this section.

(5) Coverage offered to charitable health care providers and persons volunteering at charitable health care providers shall be at least as broad as the coverage offered by the insurer to other noncharitable health care providers or facilities and to medical professionals working at noncharitable health care facilities.

(6) The Department of Insurance shall retrospectively review on an annual basis the premiums paid pursuant to this section as opposed to the expenses incurred by the insurers covering risks under this section to determine if the profits made for those risks were consistent with reasonable loss ratio guidelines. If the determination is made that the profits were not consistent with reasonable loss ratio guidelines, the Department of Insurance shall determine the amount of the premiums to be refunded to the Commonwealth.

(7) The Cabinet for Health Services shall make available to the Department of Insurance information on its registration of charitable health care providers for the purpose of obtaining medical malpractice insurance.

(8) The Department of Insurance shall not provide medical malpractice insurance as specified in subsection (3)(a) of this section to a charitable health care provider who has not registered with the Cabinet for Health Services under KRS 216.941.

(3) The provisions of subsection (1) of this section shall not apply to a dentist with a specialty license when providing services as a charitable health care provider under KRS 216.941.

The Committee Substitute to **HB 321** is as follows:

HB 321, AN ACT relating to the practice of dentistry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216.940 is amended to read as follows:

As used in KRS 216.940 to 216.945:

(1) "Charitable health care provider" means any person, agency, clinic, or facility licensed or certified by the Commonwealth or under a comparable provision of law of another state, territory, district, or possession of the United States, engaged in the rendering of medical care ***or dentistry*** without compensation or charge, and without expectation of compensation or

charge, to the individual, without payment or reimbursement by any governmental agency or insurer. "Charitable health care provider"[~~ only~~] means those persons, agencies, clinics, or facilities engaging in primary care and performing no invasive or surgical procedures. ***"Charitable healthcare provider" also means those persons, agencies, or facilities engaging in dentistry, which may include but not be limited to invasive or surgical procedures.***

(2) "Regularly practice" means to practice for more than sixty (60) days within any ninety (90) day period.

(3) "Sponsoring organization" means any organization, with an established relationship with a practicing entity, that organizes or arranges for the voluntary provision of health care services in the state.

Section 2. KRS 304.40-075 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Charitable health care provider" means any person, agency, clinic, or facility licensed or certified by the Commonwealth, or under a comparable provision of law of another state, territory, district, or possession of the United States, engaged in the rendering of medical care ***or dentistry*** without compensation or charge, and without expectation of compensation or charge, to the individual, without payment or reimbursement by any governmental agency or insurer. "Charitable health care provider"[~~ only~~] means those persons, agencies, clinics, or facilities engaging in primary care medicine and performing no invasive or surgical procedures***. "Charitable health care provider" also means those persons, agencies, or facilities engaging in dentistry which may include but not be limited to invasive or surgical procedures***;

(b) "Medical malpractice insurer" means every person or entity engaged as principal and as indemnitor, surety, or contractor in the business of entering into contracts to provide medical professional liability insurance, except an entity in the business of providing such medical professional liability insurance only to itself or its affiliated subsidiary, or parent corporation, or subsidiaries of its parent corporations; and

(c) "Medical professional liability insurance" means insurance to cover liability incurred as a result of the hands-on providing of medical professional services directly to patients by an insured in the treatment, diagnosis, or prevention of patient illness, disease, or injury.

(2) Insurers offering medical professional liability insurance in the Commonwealth shall make available, as a condition of doing business in the Commonwealth pursuant to this chapter, medical professional liability insurance for charitable health care providers and persons volunteering to perform medical services for charitable health care providers, with the same coverage limits made available to its other insureds.

(3) (a) Premiums for policies issued under subsection (2) of this section shall be paid by the Commonwealth from the general fund upon written application for payment of the premium by the health care provider wishing to offer charitable services.

(b) The Department of Insurance shall, through promulgation of administrative regulations pursuant to KRS Chapter 13A, establish reasonable guidelines for the registration of charitable health care providers. The guidelines shall require the provider to supply, at a minimum, the following information:

1. Name and address of the charitable health care provider;
2. Number of employees of the charitable health care provider who will be rendering medical care without compensation or charge and without expectation of compensation or charge, and who will be covered under the policy issued under subsection (2) of this section;
3. The expected number of patients to be provided charitable health care services in the year for which the insurer will offer malpractice coverage;
4. The charitable health care provider's acknowledgment that the insurer's risk management and loss prevention policies shall be followed;
5. A copy of the registration filed with the Cabinet for Health Services under KRS 216.941; and
6. A copy of the medical malpractice policy, declaration page, and any other documentation the commissioner may deem necessary to determine the proper amount of premiums and taxes to be reimbursed.

(c) Persons insured under this section shall be required to comply with the same risk management and loss prevention policies which the insurer imposes upon its other insureds.

(d) Any premium refund for medical professional liability insurance issued under subsection (2) of this section received for any reason by the charitable health care provider shall be promptly remitted to the department for transmittal to the general fund.

(4) This section shall only apply to charitable health care providers and persons volunteering to perform medical services for charitable health care providers who are not otherwise covered by any policy of medical professional liability insurance for the charitable health care services provided, and that meet the terms for eligibility established pursuant to this section.

(5) Coverage offered to charitable health care providers and persons volunteering at charitable health care providers shall be at least as broad as the coverage offered by the insurer to other noncharitable health care providers or facilities and to medical professionals working at noncharitable health care facilities.

(6) The Department of Insurance shall retrospectively review on an annual basis the premiums paid pursuant to this section as opposed to the expenses incurred by the insurers covering risks under this section to determine if the profits made for those risks were consistent with reasonable loss ratio guidelines. If the determination is made that the profits were not consistent with reasonable loss ratio guidelines, the Department of Insurance shall determine the amount of the premiums to be refunded to the Commonwealth.

(7) The Cabinet for Health Services shall make available to the Department of Insurance information on its registration of charitable health care providers for the purpose of obtaining medical malpractice insurance.

(8) The Department of Insurance shall not provide medical malpractice insurance as specified in subsection (3)(a) of this section to a charitable health care provider who has not registered with the Cabinet for Health Services under KRS 216.941.

Section 3. KRS 313.445 is amended to read as follows:

(1) No specialty license shall be issued unless the applicant presents proof satisfactory to the board that he will limit his practice to that specialty from date of receipt of such license. Upon the failure of a specialty licensee to limit his practice to the specialty in which he is licensed, the board shall recall his specialty license and revoke the privilege of announcing to the public that he is especially qualified in, or is limiting his practice to, such specialty. The specialty license and the privileges attached thereto shall be restored to the dentist when satisfactory proof has been presented that such dentist is limiting his practice to the specialty in which he was licensed.

(2) No provision in this chapter shall be construed as limiting or preventing a duly licensed and qualified dentist from performing, without a specialty license, dental acts or services to the public in any of the branches of dentistry set out in KRS 313.400.

(3) The provisions of subsection (1) of this section shall not apply to a dentist with a specialty license when providing services as a charitable health care provider under KRS 216.941.

(4) A dentist with a specialty license and a general dentist shall only perform those dental procedures that the dentist is competent to perform by education, training, and experience.

The Committee on Transportation reported **HB 85, HB 172,** with Committee Substitute attached thereto, **HB 357**, with Committee Substitute attached thereto, **HJR 7, HJR 9, HJR 11,** with Committee Substitute attached thereto, **HJR 19, HJR 40, HJR 42, HJR 43, HJR 46, HJR 54, HJR 82,** and **HJR 91** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 85, AN ACT relating to graduated driver's licenses for teenagers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.450 is amended to read as follows:

(1) A person who is at least sixteen (16) years of age may apply for an instruction permit to operate a motor vehicle. A person who possesses a valid motor vehicle operators' license or a person who is at least eighteen (18) years of age may apply for an instruction permit to operate a motorcycle. A holder of either a motor vehicle or motorcycle instruction permit may also operate a moped under that permit. A person applying for an instruction permit under this section shall make application in the office of the circuit clerk in the county where the person lives. A person applying for an instruction permit shall be required to comply with the following:

(a) If the person is under the age of eighteen (18), the instruction permit application shall be signed by the applicant's parent or legal guardian. If the person does not have a living parent or does not have a legal guardian, the instruction permit application shall be signed by a person willing to assume responsibility for the applicant pursuant to KRS 186.590; and

(b) All applicants for an instruction permit shall comply with the examinations required by KRS 186.480.

(2) If an applicant successfully passes the examinations required by KRS 186.480, the applicant shall be issued an instruction permit upon payment of a six dollar ($6) fee pursuant to KRS 186.531.

(3) An instruction permit shall be valid for one (1) year and may be renewed. *A person who is at least sixteen (16) years of age and under the age of eighteen (18) years at the time of application for an instruction permit shall have the instruction permit a minimum of one hundred eighty (180) days before applying for an intermediate license and shall have an intermediate license for a minimum of one hundred eighty (180) days before applying for an operator's license.* A person *who is at least eighteen (18) and* under the age of twenty-one (21) at the time of application for an instruction permit shall have the instruction permit a minimum of one hundred eighty (180) days before applying for an operator's license*, and shall not be required to have an intermediate license*. A person who is at least twenty-one (21) years of age at the time of application for an instruction permit shall have the instruction permit a minimum of thirty (30) days before applying for an operator's license.

(4) A person shall have the instruction permit in his possession at all times when operating a motor vehicle, motorcycle, or moped upon the highway.

(5) When operating a motor vehicle, a motor vehicle instruction permit holder shall be accompanied by a person with a valid operator's license who is at least twenty-one (21) years of age occupying the seat beside the operator at all times.[

~~(5)~~]A person with an instruction permit who is under the age of eighteen (18) shall not operate a motor vehicle, motorcycle, or moped between the hours of 12 midnight and 6 a.m. ***and shall not operate a motor vehicle, motorcycle, or moped at any time when accompanied by two (2) or more persons under twenty-one (21) years of age who are not related to the driver*** unless the person can demonstrate good cause for driving including[~~, but not limited to,~~] emergencies, involvement in school related activities, or involvement in work related activities. ***A violation under this subsection or a conviction under KRS Chapter 186, 189, or 189A shall add an additional minimum of one hundred eighty (180) days from the date of the violation before a person under the age of eighteen (18) may apply for an intermediate license to operate a motor vehicle, motorcycle, or moped.***

(6) A person under the age of eighteen (18) who accumulates more than six (6) points against his driving privilege may have the driving privilege suspended pursuant to KRS Chapter 186 or probated by the court.

(7) An applicant for relicensing after revocation shall pay the clerk a fee of twenty-five dollars ($25). The twenty-five dollar ($25) fee shall not apply to any person whose license was suspended for failure to meet the conditions described in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated and persons reinstated pursuant to KRS 159.051.

SECTION 2. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) A person who is at least sixteen and a half (16 1/2) years of age and under the age of eighteen (18) years may apply for an intermediate license to operate a motor vehicle if the person has held an instruction permit a minimum of one hundred eighty (180) days without a violation under subsection (5) of Section 1 of this Act or a conviction under KRS Chapter 186, 189, or 189A.

(2) If an applicant for an intermediate license successfully passes the road test, an intermediate license sticker shall be affixed to the instruction permit by the State Police. The State Police shall report that an applicant has successfully passed the road test to the Transportation Cabinet. The Transportation Cabinet shall update the information in its computer system to reflect that the applicant has been granted an intermediate license. An intermediate license shall be valid for two (2) years and may be renewed.

(3) A person shall have the intermediate license in his or her possession at all times when operating a motor vehicle, motorcycle, or moped upon the highway.

(4) A person with an intermediate license who is under the age of eighteen (18) years shall not operate a motor vehicle, motorcycle, or moped between the hours of 12 midnight and 6 a.m. and shall not operate a motor vehicle, motorcycle, or moped at any time when accompanied by two (2) or more persons under twenty-one (21) years of age who are not related to the driver unless the person can demonstrate good cause for driving including emergencies, involvement in school-related activities, or involvement in work-related activities. A violation under this subsection or a conviction under KRS Chapter 186, 189, or 189A shall add an additional minimum of one hundred eighty (180) days from the date of the violation before a person under the age of eighteen (18) years may apply for an operator's license.

SECTION 3. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

A person under the age of eighteen (18) years may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has:

(1) Held an intermediate license a minimum of one hundred eighty (180) days without a violation of subsection (4) of Section 2 of this Act or a conviction under KRS Chapter 186, 189, or 189A;

(2) Completed a driver training program as required under KRS 186.410(4); and

(3) Presented a statement signed by a parent or guardian of the applicant attesting that the applicant has completed at least sixty (60) hours of supervised driving experience including at least ten (10) hours at night while accompanied by a person with a valid operator's license who is at least twenty-one (21) years of age occupying the seat beside the applicant at all times.

Section 4. KRS 186.412 is amended to read as follows:

(1) A person ***who is at least eighteen (18) years of age and*** under the age of twenty-one (21) at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit ***or intermediate license*** for at least one hundred eighty (180) days. A person who is at least twenty-one (21) years of age at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least thirty (30) days.

(2) Except as provided in subsection (4) of this section, a person shall apply for an operator's license in the office of the circuit clerk of the county where the person lives. The application form shall require the person's:

(a) Full legal name and signature;

(b) Date of birth;

(c) Social Security number, federal tax identification number, a letter from the Social Security Administration declining to issue a Social Security number, or a notarized affidavit from the applicant to the Transportation Cabinet swearing that the person either does not have a Social Security number, or refuses to divulge his or her Social Security number, based upon religious convictions;

(d) Sex;

(e) Present Kentucky resident address, exclusive of a post office box address alone;

(f) Other information necessary to permit the application of United States citizens to also serve as an application for voter registration;

(g) A brief physical description of the applicant;

(h) A statement if the person has previously been licensed as an operator in another state;

(i) Proof of the person's Kentucky residency including, but not limited to, a deed or property tax bill, utility agreement or utility bill, or rental housing agreement; and

(j) Other information the cabinet may require by administrative regulation promulgated under KRS Chapter 13A.

(3) A permanent resident shall present one (1) of the following documents issued by the United States Department of Justice, Immigration and Naturalization Service:

(a) An I-551 card with a photograph of the applicant; or

(b) A form with the photograph of the applicant or a passport with a photograph of the applicant on which the United States Department of Justice, Immigration and Naturalization Service has stamped the following: "Processed for I-551. Temporary evidence of lawful admission for permanent residence. Valid until -----. Employment authorized."

(4) If the person is not a United States citizen and has not been granted status as a permanent resident of the United States, the person's application for an original operator's license shall be submitted to either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.

(a) The application form shall be accompanied by the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, authorizing the person to be in the United States and, if applicable, the person's international driving permit. The application form of a special status individual with a K-1 status shall be accompanied by an original or certified copy of the person's completed marriage license signed by the official who presided over the marriage ceremony and two (2) witnesses. The application form of a special status individual with a K-1 status shall also include the person's petition to enter the United States for the purpose of marriage that contains the name of the prospective spouse. If the name of the prospective spouse on the petition does not match the name of the spouse on the marriage license, the Transportation Cabinet shall not be required to issue an operator's license.

(b) The Transportation Cabinet shall, within fifteen (15) days of receipt of the application, review the person's documentation and determine if the person will be issued a Kentucky operator's license. If the review of an application will take longer than fifteen (15) days, the cabinet shall continue the review, but the cabinet shall be required to make a determination in all cases within thirty (30) days of receipt of the application.

(c) If the cabinet determines the person may be issued an operator's license, the cabinet shall issue the person an official form that the person shall take to the office of the circuit clerk of the county where the person resides. The circuit clerk shall review the person's documentation and the official form issued by the Transportation Cabinet. If the documentation is verified as accurate, and if the person successfully completes the examinations required under KRS 186.480, the circuit clerk shall issue the person a Kentucky operator's license.

(d) Except as provided in paragraphs (e) and (f) of this subsection, a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States shall apply to renew an operator's license, or obtain a duplicate operator's license, in the office of the circuit clerk in the county in which the person resides.

(e) If a person is renewing an operator's license or is applying for a duplicate license after July 15, 2002, and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, has not been reviewed by the either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office under the provisions of this subsection, the person shall be required to apply for the renewal or duplicate with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.

(f) If a person has any type of change in the person's immigration status, the person shall apply to renew an operator's license with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.

(5) The circuit clerk shall issue an operator's license bearing a color photograph of the applicant and other information the cabinet may deem appropriate. The photograph shall be taken by the circuit clerk so that one (1) exposure will photograph the applicant and the application simultaneously. When taking the photograph, the applicant shall be prohibited from wearing sunglasses or any other attire that obscures any features of the applicant's face as determined by the clerk. The clerk shall require an applicant to remove sunglasses or other obscuring attire before taking the photograph required by this subsection. Any person who refuses to remove sunglasses or other attire prohibited by this section as directed by the clerk shall be prohibited from receiving an operator's license. The operator's license issued by the cabinet shall not contain the applicant's Social Security number. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A

that develop a numbering system that uses an identification system other than Social Security numbers. If an applicant does not have a Social Security number, or the applicant has submitted a notarized affidavit refusing to divulge his or her Social Security number based upon religious convictions, the Transportation Cabinet shall assign the applicant a unique identifying number. The license shall also designate by color coding and use the phrase "under 21" if the licensee is under the age of twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under the age of twenty-one (21).

(6) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.

(7) (a) Except as provided in subsection (8) of this section, the circuit clerk shall issue a color photo nondriver's identification card to any person who is a Kentucky resident and who resides in the county who complies with the provisions of this section and who applies in person in the office of the circuit clerk. An application for a nondriver's identification card shall be accompanied by the same information as is required for an operator's license under subsection (2) of this section, except if a person does not have a fixed, permanent address, the person may use as proof of residency a signed letter from a homeless shelter, health care facility, or social service agency currently providing the person treatment or services and attesting that the person is a resident of Kentucky.

(b) It shall be permissible for the application form for a nondriver's identification card to include as a person's most current resident address a mailing address, post office box, or an address provided on a voter registration card.

(c) Every applicant for a nondriver's identification card shall make an oath to the circuit clerk as to the truthfulness of the statements contained on the application form. If the applicant is not the legal owner or possessor of the address provided on the application form, the applicant shall swear that he or she has permission from the legal owner, authorized agent for the legal owner or possessor to use the address for purposes of obtaining the nondriver's identification card. The nondriver's identification card shall designate by color coding and by use of the phrase "under 21" if the applicant is under the age of twenty-one (21).

(d) A nondriver's identification card shall be valid for a period of four (4) years from the date of issuance. Except as provided in this subsection, an initial or renewal nondriver's identification card issued to a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States and who is not a special status individual, but who is a Kentucky resident, shall be valid for a period equal to the length of time the person's documentation from the United States Department of Justice, Immigration and Naturalization Service is issued, or four (4) years, whichever time period is shorter. An initial or renewal nondriver's identification card shall be valid for a period of two (2) years if the person is not a special status individual and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, is issued for an indefinite period of time and does not have an expiration date. The fee shall be the same as for a regular nondriver's identification card.

(e) A nondriver's identification card may be suspended or revoked if the person who was issued the card presents false or misleading information to the cabinet when applying for the card.

(8) A person shall not be eligible to be issued a nondriver's identification card if the person currently holds a valid Kentucky instruction permit or operator's license. If a person's instruction permit or operator's license has been suspended or revoked, the person may be issued a temporary nondriver's identification card. A temporary nondriver's identification shall be renewed annually and shall be surrendered when the person applies to have his or her instruction permit or operator's license reinstated.

(9) The Transportation Cabinet shall implement a voluntary statewide child identification program. The program shall issue a color photo nondriver's identification card to a child two (2) to fifteen (15) years of age. Application for a child identification card shall be accompanied by a Social Security card and a birth certificate for the child, or other proof of the child's date of birth as provided under subsection (2) of this section. The card shall contain the child's name and the toll-free number of the Kentucky Missing Persons Clearinghouse, Kentucky State Police. The card shall not contain the child's Social Security number. The cabinet shall set a four dollar ($4) fee for the child identification card. Two dollars ($2) of the fee shall be used to cover the cabinet's cost for equipment and supplies. Two dollars ($2) of the fee shall be an administrative fee of the circuit clerk for issuing the card which shall be deposited by the Administrative Office of the Courts into a trust and agency account for the circuit clerks and used for the purposes of hiring additional deputy clerks and providing salary adjustments to deputy clerks. The card shall expire every four (4) years on the child's birthday. Within the time period that the child identification card is valid, the card may be updated with a new photograph and information. The fee for an updated card shall be four dollars ($4), with two dollars ($2) of the fee going to the cabinet and two dollars ($2) going to the Administrative Office of the Courts in the same manner as the fee for an initial card as described in this subsection. The descriptive data and a photo image of the child shall be stored in the Kentucky Driver's License Information System and may be retrieved and used by public agencies subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. sec. 2721, and may also be used by the Kentucky Missing Persons Clearinghouse.

(10) If a citizen of the Commonwealth currently serving in the United States military is stationed or assigned to a base or other location outside the boundaries of the Commonwealth, the citizen may renew a Class D operator's license issued under this section by mail. If the citizen was issued an "under 21" operator's license, upon the date of his or her twenty-first birthday, the "under 21" operator's license may be renewed for an operator's license that no longer contains the outdated reference to being "under 21."

(11) A citizen of the Commonwealth renewing an operator's license by mail under subsection (10) of this section may have a personal designee apply to the circuit clerk on behalf of the citizen to renew the citizen's operator's license. An operator's license being renewed by mail under subsection (10) of this section shall be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature."

(12) If a citizen of the Commonwealth has been serving in the United States military and has allowed his operator's license to expire, he shall, within ninety (90) days of returning to the Commonwealth, be permitted to renew his license without having to take a written test or road test. A citizen who does not renew his license within ninety (90) days of returning to the Commonwealth shall be required to comply with the provisions of this chapter governing renewal of a license that has expired. If a citizen of the Commonwealth has been issued an "under 21" or "under 21 CDL" operator's license and the person is unable to renew the license on the date of his twenty-first birthday, the "under 21" or "under 21 CDL" operator's license shall be valid for ninety (90) days beyond the date of the person's twenty-first birthday.

(13) The cabinet shall provide on each license to operate motor vehicles, motorcycles, and mopeds a space for the licensed driver's:

(a) Blood type;

(b) Medical insignia if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet; and

(c) A statement whereby the owner of the license may certify in the presence of two (2) witnesses his willingness to make an anatomical gift under KRS 311.195.

(14) If the motor vehicle operator denotes a physical ailment or drug allergy on the operator's license, he may apply for and shall receive, for a fee of one dollar ($1) paid to the circuit clerk, a medical insignia decal that may be affixed to the lower left side of the front windshield of a motor vehicle.

(15) An operator's license pursuant to this section shall be designated a Class D license.

(16) A person shall not have more than one (1) license.

(17) Upon marriage, a woman applying for an operator's license or a color photo nondriver's identification card shall provide the circuit clerk with her marriage license and complete an affidavit form provided by the circuit court clerk. She shall have the following choices in regard to her full legal name as required in subsections (2) and (7) of this section:

(a) Use her husband's last name;

(b) Retain her maiden name;

(c) Use her maiden name hyphenated with her husband's last name;

(d) Use her maiden name as a middle name and her husband's last name as her last name; or

(e) In the case of a previous marriage, retain that husband's last name.

(18) Upon issuing an operator's license or nondriver's identification card, the clerk shall draw the recipient's attention to the location on the license relating to anatomical gifts under subsection (13)(c) of this section and offer to allow personnel in the clerk's office to serve as the witnesses to the recipient's certification of willingness to make an anatomical gift if the recipient is the person to whom the license is issued.

Section 5. KRS 186.470 is amended to read as follows:

(1) The application of any minor under the age of eighteen (18) for an operator's license, motorcycle operator's license, ***intermediate license,*** or any instruction permit shall not be granted unless the application is signed by a parent or legal guardian of the applicant. Regardless of which parent signs the application, both parents shall be responsible as provided in KRS 186.590. If the minor does not have a father, mother, or guardian, an operator's license***, intermediate license,*** or instruction permit shall not be granted to the minor unless his application is signed by a person willing to assume the obligation imposed by KRS 186.590 upon a person signing the application of a minor. A signature shall not be required in the case of the renewal of a minor's license but the signature on the original application shall continue to make the parent, guardian, or other person liable under the provisions of KRS 186.590 on all renewals of the minor's license until he reaches the age of eighteen (18) unless the license, or any renewal thereof, is canceled as provided in subsection (2) of this section.

(2) A parent or a guardian of a minor applicant may file with the cabinet a verified written request that the license of the minor be canceled. Thereupon the license of the minor shall be canceled and the person who signed the application shall be relieved as to subsequent acts of the minor from the liability imposed by subsection (1) of KRS 186.590.

(3) The cabinet upon receipt of satisfactory evidence of the death of the person who signed the application of a minor for a license shall have the license canceled and no new license shall be issued to the minor until a new application, signed and verified, is made as required by this section.

Section 6. KRS 186.480 is amended to read as follows:

(1) The State Police shall examine every applicant for an ***instruction permit, an intermediate license, and an*** operator's license as identified in KRS 186.6401, except as otherwise provided in this section. The examination shall be held in the county where the applicant resides unless:

(a) The applicant is granted written permission by the circuit clerk of the county in which he resides to take the examination in another county, and the State Police agree to arrange for the examination in the other county; or

(b) The applicant is tested using a bioptic telescopic device.

(2) The examination shall include a test of the applicant's eyesight to ensure compliance with the visual acuity standards set forth in KRS 186.577. The examination shall also include a test of the applicant's ability to read and understand highway signs regulating, warning and directing traffic, the applicant's knowledge of traffic laws and an actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle. An applicant for a motorcycle operator's license shall be required to show his ability to operate a motorcycle, in addition to other requirements of this section. The provisions of this subsection shall not apply to an applicant who:

(a) At the time of application, holds a valid operator's license from another state, provided that state affords a reciprocal exemption to a Kentucky resident; or

(b) Is a citizen of the Commonwealth who has been serving in the United States military and has allowed his operator's license to expire.

(3) Any person whose ***instruction permit, intermediate license, or*** operator's license is denied, suspended, or revoked for cause shall apply for reinstatement at the termination of the period for which the license was denied, suspended, or revoked by submitting to the examination. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions described in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated.

Section 7. KRS 186.6401 is amended to read as follows:

The following persons shall be required to successfully complete the examinations required under KRS 186.480 prior to being issued a Kentucky operator's license:

(1) A person who has been issued a Kentucky instruction permit ***or intermediate license***;

(2) A person who has applied for a Kentucky operator's license under KRS 186.412(4); and

(3) Other persons as identified in an administrative regulation promulgated by the Kentucky State Police under KRS Chapter 13A.

Section 8. KRS 186.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 186.020, 186.030, 186.040, 186.045(4), 186.050, 186.056, 186.060, 186.110, 186.130, 186.140, 186.160, 186.170, 186.180(1) to (4)(a), 186.210, 186.230, or KRS 186.655 to 186.680 shall be guilty of a violation.

(2) Any person who violates any of the provisions of KRS 138.465, 186.190, or 186.200 shall be guilty of a Class A misdemeanor.

(3) A person who violates the provisions of KRS 186.450(4) or (5) ***or subsection (3) or (4) of Section 2 of this Act*** shall be guilty of a violation. A person who violates any of the other provisions of KRS 186.400 to 186.640 shall be guilty of a Class B misdemeanor.

(4) Any clerk or judge failing to comply with KRS 186.550(1) shall be guilty of a violation.

(5) If it appears to the satisfaction of the trial court that any offender under KRS 186.400 to 186.640 has a driver's license but in good faith failed to have it on his or her person or misplaced or lost it, the court may, in its discretion, dismiss the charges against the defendant without fine, imprisonment, or cost.

(6) Any person who steals a motor vehicle registration plate or renewal decal shall be guilty of a Class D felony. Displaying a canceled registration plate on a motor vehicle shall be prima facie evidence of guilt under this section.

(7) Any person who violates the provisions of KRS 186.1911 shall be guilty of a Class A misdemeanor.

(8) Any person who makes a false affidavit to secure a license plate under KRS 186.172 shall be guilty of a Class A misdemeanor.

(9) Any person who violates any provision of KRS 186.070 or 186.150 shall be guilty of a Class A misdemeanor.

(10) Any person who operates a vehicle bearing a dealer's plate upon the highways of this Commonwealth with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.

(11) Any person, other than a licensed dealer or manufacturer, who procures a dealer's plate with intent to evade the motor vehicle usage tax or registration fee shall be guilty of a Class D felony.

(12) Any resident who unlawfully registers, titles, or licenses a motor vehicle in any state other than Kentucky with intent to evade the motor vehicle usage tax or the registration fee shall be guilty of a Class A misdemeanor if the amount of tax due is less than one hundred dollars ($100), or of a Class D felony if the amount of tax due is more than one hundred dollars ($100), and in addition shall be liable for all taxes so evaded with applicable interest and penalties.

HB 172, AN ACT relating to special license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section and in Sections 2, 3, 6, and 7 of this Act:

(a) "Special license plate" means a unique license plate issued under this chapter to a group or organization that readily identifies the operator of the motor vehicle bearing the plate as a member of a group or organization, or a supporter of the work, goals, or mission of a group or organization. The term shall not include regular license plates issued under KRS 186.240;

(b) "Street rod" means a modernized private passenger motor vehicle manufactured prior to the year 1949, or designed or manufactured to resemble a vehicle manufactured prior to 1949;

(c) "SF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by the Transportation Cabinet;

(d) "CF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by a county clerk; and

(e) "EF" means the portion of an initial or renewal fee to obtain a special license plate that is mandated by this chapter to be dedicated for use by a particular group or organization.

(2) The initial purchase fee and renewal fee for a special license plate created under this chapter shall be as established in this subsection and includes the name of group or organization and the total initial and renewal fee required for the plate. The amount in parentheses indicates how the total fee is required to be divided:

(a) Disabled veterans who receive assistance to purchase a vehicle from the United States Veterans' Administration and recipients of the Congressional Medal of Honor:

1. Initial Fee: $0 ($0 SF/$0 CF/$0 EF).

2. Renewal Fee: $0 ($0 SF/$0 CF/$0 EF).

(b) Former prisoners of war, survivors of Pearl Harbor, and members of the Kentucky National Guard:

1. Initial Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

2. Renewal Fee: $3 ($0 SF/$3 CF/$0 EF).

(c) Recipients of the Purple Heart; members of the Civil Air Patrol; active, retired, veteran, reserve, or auxiliary members of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; Merchant Marines who served between December 7, 1941, and August 15, 1945; and disabled veterans who have been declared to be at least seventy percent (70%) service-connected disabled by the United States Department of Veterans' Affairs, or who receive total service-connected disability rating for compensation on individual unemployability and have not received assistance from the United States Department of Veterans' Affairs toward the purchase of a motor vehicle:

1. Initial Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(d) Recipients of the Distinguished Service Cross, Navy Cross, or Air Force Cross:

1. Initial Fee: $3 ($0 SF/$3 CF/$0 EF).

2. Renewal Fee: $3 ($0 SF/$3 CF/$0 EF).

(e) Disabled license plates:

1. Initial Fee: $15 ($12 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(f) Historic vehicles:

1. Initial Fee for two plates: $53 ($50 SF/$3 CF/$0 EF).

2. Renewal Fee: Do not renew annually.

(g) Members of Congress:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(h) Volunteer firefighters:

1. Initial Fee: $15 ($12 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(i) Disaster and emergency services:

1. Initial Fee: $28 ($25 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(j) Fraternal Order of Police:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(k) Law Enforcement Memorial:

1. Initial Fee: $75 ($62 SF/$3 CF/$10 EF to the Kentucky Law Enforcement Memorial Foundation, Inc.).

2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to the Kentucky Law Enforcement Memorial Foundation, Inc.).

(l) Personalized plates:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).

2. Renewal Fee: $40 ($37 SF/$3 CF/$0 EF).

(m) Street rods:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(n) Nature plates:

1. Initial Fee: $25 ($12 SF/$3 CF/$10 EF to Kentucky Heritage Land Conservation Fund established under KRS 146.570).

2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to Kentucky Heritage Land Conservation Fund established under KRS 146.570).

(o) Amateur radio:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(p) Kentucky General Assembly:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(q) Kentucky Court of Justice:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).

2. Renewal Fee: $3 ($0 SF/$3 CF/$0 EF).

(r) Masons:

1. Initial Fee: $28 ($25 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(s) Collegiate plates:

1. Initial Fee: $50 ($37 SF/$3 CF/$10 EF to the general scholarship fund of the university whose name will be bourne on the plate).

2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to the general scholarship fund of the university whose name will be bourne on the plate).

(t) Independent Colleges:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to the Association of Independent Kentucky Colleges and Universities for distribution to the general scholarship funds of the Association's members).

2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to the Association of Independent Kentucky Colleges and Universities for distribution to the general scholarship funds of the Association's members).

(u) Child Victims:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to the child victims' trust fund established under KRS 41.400).

2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the child victims' trust fund established under KRS 41.400).

(v) Kentucky Horse Council:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to the Kentucky Horse Council).

2. Renewal Fee: $20 ($12 SF/$3 CF/ $5 EF to the Kentucky Horse Council).

(w) Ducks Unlimited:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to Kentucky Ducks Unlimited).

2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to Kentucky Ducks Unlimited).

(x) Spay neuter:

1. Initial Fee: $25 ($12 SF/$3 CF/$10 EF to the animal control and care fund established under KRS 258.119).

2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the animal control and care fund established under KRS 258.119).

(3) Any special license plate may be combined with a personalized license plate for a twenty-five dollar ($25) state fee in addition to all other fees for the particular special license plate established in this section and in subsection (3) of Section 2 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) The SF portion of the fee required under Section 1 of this Act shall include the fee to reflectorize all license plates under KRS 186.240. All EF fees required under Section 1 of this Act to be collected by the county clerk at the time of an initial or renewal application shall be remitted annually by the clerk to the group or organization identified under subsection (11) of this section. The county clerk shall be permitted to retain any investment income earned from holding EF fees designated to be remitted under this subsection to offset administrative costs incurred by the clerk in the administration of EF fees.

(2) A special license plate shall be the color and design selected by the group or organization identified in subsection (11) of this section, contingent upon the approval of the Transportation Cabinet. In addition to the design selected for a special license plate, the name "Kentucky," an annual renewal decal, and any combination of letters or numerals required by the cabinet in the design shall also appear on the plate.

(3) Except as provided in Section 1 of this Act, the total initial fee for a special license plate created under this chapter shall be twenty-eight dollars ($28), of which the Transportation Cabinet shall receive twenty-five dollars ($25) and the county clerk shall receive three dollars ($3), and the total renewal fee shall be fifteen dollars ($15), of which the Transportation Cabinet shall receive twelve dollars ($12) and the county clerk shall receive three dollars ($3).

(4) An actual metal special license plate shall be issued on the same schedule as regular license plates are issued under KRS 186.240. The cabinet shall have the discretion to extend the time period that will exist between the date a metal special license plate is issued and the date that regular plates are issued under KRS 186.240. A renewal registration decal shall be issued all other years during the owner's or lessee's birth month, except as provided in subsection (2) of Section 4 of this Act, subsection (5) of Section 5 of this Act, and subsection (2) of Section 7 of this Act. A person seeking a special license plate for a vehicle provided as part of the person's occupation shall conform to the requirements of KRS 186.050(14).

(5) All special license plates issued under this chapter shall be replaced free of charge if the metal plate is destroyed in an accident, deteriorates to a point that the lettering, numbering, or images on the face of the plate are not legible, or the plate is stolen, if the owner or lessee has not transferred the vehicle to which the plate was issued during the current licensing period.

(6) Upon the sale, transfer, or termination of a lease of a vehicle with any special license plate issued under this chapter, the owner or lessee shall remove the special plate and return it and the certificate of registration to the county clerk. The county clerk shall reissue the owner or lessee a regular license plate and a certificate of registration upon payment of a three dollar ($3) county clerk fee. If the owner or lessee requests, the county clerk shall reissue the special plate free of charge for use on any other vehicle of the same classification and category owned by the person during the current licensing period. If the owner or lessee has the special plate reissued to another vehicle, the regular license plate that is being replaced shall be returned to the county clerk who shall forward the plate to the Transportation Cabinet.

(7) A special license plate may be issued to the owner or lessee of a motor vehicle that is required to be registered under KRS 186.050(1), (3)(a), or (4)(a) except a special license plate shall not be issued to a taxicab, airport limousine, or U-Drive-It registered and licensed under this chapter or KRS Chapter 281. A person applying for a special license plate shall apply in the office of the county clerk in the county of the person's residence, except as provided in subsection (3) of Section 4 of this Act. All special license plates issued under this chapter may be combined with a personalized license plate under the provisions of KRS 186.174. The fee to combine a special license plate with a personalized license plate shall be as established in subsection (3) of Section 1 of this Act.

(8) Within thirty (30) days of termination from election to, appointment to, or membership with any group or organization, an applicant to whom a special license plate was issued under this chapter shall return the special license plate to the county clerk of the county of his or her residence, unless the person is merely changing his or her status with the group or organization to retired.

(9) A group wanting a special license plate that is not currently authorized under this chapter may apply to the

Transportation Cabinet for a special plate after the group collects a minimum of nine hundred (900) applications from members of the organization with each application being accompanied by a twenty-five dollar ($25) state fee. The applications and accompanying fee shall be submitted to the cabinet at one (1) time as a whole and shall not be submitted individually or intermittently. After the minimum number of applications and accompanying state fee have been submitted to the Transportation Cabinet, the cabinet shall begin designing and printing the special license plate.

(10) An initial applicant for, or an applicant renewing, his or her registration for a special license plate may, at the time of application, make a voluntary contribution that the county clerk shall remit annually to the group identified, and for the declared purpose stated under subsection (11) of this section. The Transportation Cabinet shall immediately make available to each county clerk the information received under subsection (11) of this section. Any group or organization that receives a mandatory EF fee under Section 1 of this Act shall submit the information required under subsection (11)(a) and (c) of this section to the Transportation Cabinet within thirty (30) days of the effective date of this Act.

(11) If a group wants to receive a donation when the group or organization's special license plate is initially purchased or renewed under subsection (10) of this section, the group shall, at the time the nine hundred (900) applications are submitted to the Transportation Cabinet, also submit a notarized affidavit to the cabinet attesting to:

(a) The name, address, and telephone number for the group or organization. If the group or organization does not have its headquarters in the Commonwealth, the name, address, and telephone number for the group or organization's Kentucky state chapter shall be required. The names of the officers of the group or organization shall also be required. If the entity receiving funds under subsection (10) of this section is not a state government agency, a program unit within a state government agency, or is a group or organization that does not have a statewide chapter, an extra donation for use by the group or organization shall be prohibited;

(b) The amount of the monetary donation the group wants to receive when a person purchases the group or organization's special license plate; and

(c) The purpose for which the donated funds will be used by the group or organization. Donated funds shall not be limited for use by members of the group or organization, and shall not be used for administrative or personnel costs of the group or organization.

(12) All funds received by a group or organization under subsection (10) of this section shall be deposited into an account separate from all other accounts the group or organization may have and the account shall be audited yearly at the expense of the group or organization. The completed audit shall be forwarded to the Transportation Cabinet in Frankfort. One hundred percent (100%) of the funds received by a group or organization under subsection (10) of this section shall be used for the express purpose identified by the group in subsection (11) of this section. Any group or organization that receives a mandatory EF fee under Section 1 of this Act shall comply with the provisions of this subsection.

(13) The secretary of the Transportation Cabinet shall promulgate administrative regulations under KRS Chapter 13A to establish additional rules to implement the issuance of special license plates issued under this chapter, including but not limited to:

(a) Documentation that will be required to accompany an application for a special license plate to provide proof of election to the United States Congress or the Kentucky General Assembly; election or appointment to the Kentucky Court of Justice; membership in a Masonic Order, Fraternal Order of Police, or disaster and emergency services organization; or ownership of an amateur radio operator license; and

(b) The time schedule permissible for a group or organization to request a design change for the special license plate.

(14) Any individual, group, or organization that fails to audit any funds received under this chapter, or that intentionally uses any funds received in any way other than attested to under subsection (11) of this section or for administrative or personnel costs in violation of subsection (11) of this section, shall be guilty of a Class D felony and upon conviction shall, in addition to being subject to criminal penalties, be assessed a mandatory five thousand dollar ($5,000) fine.

SECTION 3. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) The Transportation Cabinet shall, unless directed otherwise by the General Assembly, perpetually produce the following special license plates: military license plates, U.S. Congressional license plates, volunteer firefighter license plates, disaster and emergency services license plates, Fraternal Order of Police license plates, Law Enforcement Memorial license plates, street rod license plates, nature license plates, amateur radio license plates, Kentucky General Assembly license plates, Kentucky Court of Justice license plates, Masonic Order license plates, collegiate license plates, independent college and university license plates, child victims' trust fund license plates, Kentucky Horse Council license plates, Ducks Unlimited license plates, and spay neuter license plates.

(2) The design of the plates identified for perpetual production under this section may be revised upon request of a group or organization requesting a design revision under the provisions of subsection (13) of Section 2 of this Act.

Section 4. KRS 186.041 is amended to read as follows:

(1) ~~[The provisions of this section shall govern the issuance of all special military related license plates. Except as provided in~~

~~subsection (9) of this section, a person who wants to purchase a special military related license plate shall apply to the county clerk in the county where the person lives on a form prescribed by the Transportation Cabinet.]~~Each initial and renewal application ***for a special military license plate*** shall be accompanied by proof that the person is associated with the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Coast Guard, United States Coast Guard Auxiliary, Kentucky National Guard, Merchant Marines with service between December 7, 1941, and August 15, 1945, or Civil Air Patrol in one (1) of the following ways:

(a) An active component member;

(b) A retired member; or

(c) A veteran who received a discharge under honorable conditions, or the veteran's widow and:

1. Performed twenty-four (24) months of active-duty service;
2. Received an early release due to injuries or other medical condition, or at the convenience of the service;
3. Received a hardship discharge;
4. Was separated or retired due to a disability; or
5. Was determined to have a service-connected disability incurred during the enlistment.

(2) ~~[Initial registration and renewal registration fees for special military related license plates shall be charged as provided in this subsection and KRS 186.174:~~

~~(a) Disabled veterans and recipients of the Congressional Medal of Honor licensed under subsection (5) of this section shall not be charged an initial registration fee and shall not be charged a renewal registration fee. The license plate and certificate of registration shall be issued free of charge.~~

~~(b) The initial registration fee shall be a seventeen dollar ($17) state fee that shall be divided under the provisions of subsection (3) of this section and that includes the cost to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee, and the renewal registration fee shall be a three dollar ($3) county clerk fee for:~~

~~1. Former prisoners of war licensed under subsection (11) of this section;~~

~~2. Survivors of Pearl Harbor licensed under subsection (12) of this section; and~~

~~3. Members of the National Guard licensed under subsection (13) of this section.~~

~~(c) The initial registration fee shall be a seventeen dollar ($17) state fee that shall be divided under the provisions of subsection (3) of this section, and the renewal registration fee shall be a twelve dollar ($12) state fee that includes the cost to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee for:~~

~~1. Disabled veterans licensed under subsection (6) of this section;~~

~~2. Purple Heart recipients licensed under subsection (10) of this section, except that if a Purple Heart recipient also qualifies as a disabled veteran under subsection (5) of this section, the Purple Heart recipient may receive either a Purple Heart or a disabled veteran's license plate, both initial and renewal, and the certificate of registration free of charge;~~

~~3. Members of the Civil Air Patrol licensed under subsection (14) of this section; and~~

~~4. Other active, retired, veteran, reserve, or auxiliary members of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or Merchant Marines licensed under subsection (15) of this section.~~

~~(d) Recipients of the Distinguished Service Cross, Navy Cross, or Air Force Cross licensed under subsection (9) of this section shall be charged an initial registration fee and a renewal registration fee of three dollars ($3.00) that shall be retained by the county clerk. A recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross licensed under subsection (9) of this section shall not be charged a state fee when initially receiving the plate or upon annual renewal of the plate.~~

~~(e) The initial and renewal registration fee for a military license plate that has been combined with a personalized license plate under the provisions of this section shall be as provided under KRS 186.174.~~

~~(3) The initial state fee collected under subsections (2)(b) and (2)(c) of this section shall be divided between the Transportation Cabinet and the Department of Veterans' Affairs. The Transportation Cabinet shall receive twelve dollars ($12) of the initial state fee and the Department of Veterans' Affairs shall receive five dollars ($5) of the initial state fee. The county clerk shall forward money collected under subsections (2)(b) and (2)(c) of this section to the Transportation Cabinet who shall forward the money to the Department of Veterans' Affairs on a quarterly basis and the department shall deposit the money into the veterans' program trust fund established by KRS 40.460(2)(b). A person renewing a special military license plate issued under this section may donate five dollars ($5) to support the veteran's program trust fund. Money donated under this subsection shall be paid to the county clerk who shall forward the money to the Transportation Cabinet who shall forward the money on a quarterly basis to the Department of Veterans' Affairs and the department shall deposit the money into the veteran's program trust fund established by KRS 40.460(2)(b).~~

~~(4) A special military-related license plate may be issued for use on a passenger car registered under KRS 186.050(1) or for a commercial vehicle registered under KRS 186.050(3)(a) that has a gross laden weight of six thousand (6,000) pounds or less. Except as provided in subsection (7) of this section and KRS 186.174, a license plate issued under this section shall~~

~~have the renewal registration decal issued annually during the applicant's birth month and shall be a five (5) year license plate.~~]The member, retired member, veteran, or reservist may purchase two (2) special military-related license plates annually for vehicles they own or lease. ***A disabled veterans license plate shall have the renewal registration decal issued annually on July 31.***[~~A license plate issued under this section may be combined with a personalized license plate under the provisions of KRS 186.174.~~

~~(5) A recipient of the Congressional Medal of Honor, a recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross, or a disabled veteran who has been or shall be given financial assistance toward the purchase or lease of a motor vehicle by the United States Department of Veterans Affairs under the provisions of 38 U.S.C. sec. 1901, or any other public law that may be passed by the Congress of the United States shall initially and annually be issued a certificate of registration and a special military-related license plate free of charge.~~

~~(6) A veteran who has been declared to be at least seventy percent (70%) service-connected disabled by the United States Department of Veterans Affairs, or who is receiving total service-connected disability rating for compensation on individual unemployability, and who has not received financial assistance from the United States Department of Veterans Affairs toward the purchase or lease of a motor vehicle shall be eligible for a disabled veterans license plate upon payment of the initial registration fee required in subsection (2)(c) of this section.~~

~~(7) A disabled veterans license plate shall be printed in red, white, and blue colors. Half of the license plate shall be in one (1) color, the other half a second color, and the figures and lettering in the third color. Each plate shall contain the international symbol of access adopted by Rehabilitation International in 1969, the name of the state, the year, the registration number, and the words "Disabled Vet." A disabled veterans license plate shall have the renewal registration decal issued annually on July 31.~~

~~(8) A recipient of the Congressional Medal of Honor shall be eligible for a Congressional Medal of Honor license plate that shall be printed in blue and white colors and shall follow the color scheme for all figures and letters as prescribed for passenger cars. Each plate shall contain the name or an abbreviation of the state and the words "Medal of Honor" and a number uniquely identifying each recipient, in lieu of registration numbers.~~]

(3)[~~(9)~~] A recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross shall be eligible for a Service Cross license plate upon submission of an application to the Kentucky Department of Veterans' Affairs. The recipient shall be required to include with the initial application for a Service Cross license plate a copy of the general order that authorized the award and the recipient's Department of Defense form number 214. The Department of Veterans' Affairs shall verify the documentation submitted with the application for a Service Cross license plate, and if the individual applying for the plate is confirmed to be a recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross, the Department of Veterans' Affairs shall submit the applicant's name to the Transportation Cabinet's Division of Motor Vehicle Licensing not later than September 1 preceding the year that the Service Cross license plate is to be initially issued or renewed. When the Service Cross license plate is ready, the plate shall be sent to the county clerk in the county of the applicant's residence. The Transportation Cabinet's Division of Motor Vehicle Licensing shall inform each applicant in writing that the Service Cross license plate is ready and may be picked up at the county clerk's office.[~~ Each Service Cross license plate shall contain the name or an abbreviation for the state and an alphabetic or numeric designation uniquely identifying each recipient of a Service Cross license plate in lieu of registration numbers. The Transportation Cabinet shall have the authority to select three (3) designs and the appropriate color scheme for each design of the Service Cross license plate. In addition to the requirements of this subsection, the Transportation Cabinet shall have the authority to include other information on the Service Cross license plate.~~] The Transportation Cabinet shall prescribe the type of application form required by this subsection and shall supply the Department of Veterans' Affairs with the application form required by this subsection.

(4)[~~(10) A recipient of a Purple Heart medal shall be eligible for a Purple Heart license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. A Purple Heart license plate shall bear the name "Purple Heart," a registration number, and an appropriate logo to be determined by the Transportation Cabinet.~~

~~(11)~~] A person who is a former prisoner of the enemy during World War I, World War II, the Korean War, or the Vietnam War, or the spouse of a deceased former prisoner of war, shall be eligible for a former prisoner of war license plate[~~ upon payment of the initial registration fee required in subsection (2)(b) of this section. The application shall be accompanied~~] by ***submitting*** written proof from the United States Department of Veterans Affairs or other appropriate federal agency stating the period of time the person or person's spouse was a prisoner of war.[~~ A former prisoner of war license plate shall be printed in red, white, and blue colors. Each plate shall contain the name of the state, the year, the registration number, and the words "Former P.O.W."~~] If a former prisoner of war dies with a vehicle licensed as authorized under this section, the person's surviving spouse may retain the license plate for use on the same vehicle or on another vehicle that complies with the provisions of subsection ***(7) of Section 2 of this Act***[~~(4) of this section~~].

(5)[~~(12)~~] A person who is certified by the Kentucky chapter of the Pearl Harbor Survivors Association as being a survivor of the attack on Pearl Harbor shall be eligible for a Pearl Harbor license plate ***and***[~~upon payment of the initial registration fee required in subsection (2)(b) of this section. The Transportation Cabinet shall issue an applicant an appropriately designed plate identifying the vehicle as registered to a Pearl Harbor survivor. The person~~] shall be required to attach to the special military-related license plate application written evidence from the Kentucky chapter of the Pearl Harbor Survivors

Association that the person:

(a) Was a member of the United States Armed Forces on December 7, 1941;

(b) Was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m., Hawaii time, at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three (3) miles;

(c) Was discharged honorably from the United States Armed Forces; and

(d) Is certified by the Kentucky chapter of the Pearl Harbor Survivors Association.

[~~(13) A person who is a member of the Kentucky National Guard, or a retired member, shall be eligible for a National Guard license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. A National Guard license plate shall bear the name "Kentucky National Guard," a registration number, and the logo of the National Guard. Upon termination of membership in the Kentucky National Guard, except for those who remain eligible through retirement, a person shall comply with the provisions of subsection (16) of this section.~~

~~(14) A person who is a member of the Civil Air Patrol shall be eligible for a Civil Air Patrol license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. A Civil Air Patrol license plate shall bear the name "Civil Air Patrol," a registration number, and an appropriate logo to be determined by the Transportation Cabinet. Upon termination of membership in the Civil Air Patrol, a person shall comply with the provisions of subsection (16) of this section.~~

~~(15) (a) A person who meets the requirements of subsection (1) of this section shall be eligible for a military license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. The plate shall bear:~~

~~1. A seal indicating Army, Navy, Air Force, Marine Corps, or Coast Guard, or, in the case of the Merchant Marines, a seal indicating the branch of service issuing a discharge;~~

~~2. A decal indicating whether the person's status is active duty, reserve duty, veteran, retired veteran, or widow; and, if applicable, a decal for auxiliary in the case of the Coast Guard or a decal for the Merchant Marines;~~

~~3. A veteran's decal may further indicate a veteran's service in a wartime era; and~~

~~4. A registration number.~~

~~(b) Upon termination of membership in the active component or reserves of the United States Armed Forces or the United States Coast Guard, a person shall comply with the provisions of subsection (16) of this section.~~

~~(c) The Transportation Cabinet, in coordination with the Department of Veterans' Affairs, shall promulgate an administrative regulation under KRS Chapter 13A defining criteria for the issuance of specific decals for veterans' wartime service.~~

~~(16) Except for persons changing their status to retired, within thirty (30) days of termination of membership or reserve status in a group eligible for a special military-related license plate, a person issued a military plate under this section or a combined personalized/special military license plate issued under KRS 186.174, shall return the plate to the county clerk of the county of his residence. Upon payment of a three dollar ($3) county clerk fee, the county clerk shall issue the person a regular license plate to replace the plate being surrendered.~~

~~(17) Upon the sale, transfer, or termination of a lease of a motor vehicle for which a special military-related license plate has been issued, the owner shall return the military plate and the certificate of registration to the county clerk. The county clerk shall issue a regular license plate and certificate of registration upon payment of a twelve dollar ($12) state fee which includes the fifty cent ($0.50) fee to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee. The twelve dollar ($12) state fee shall be forwarded to the Transportation Cabinet. Upon request and payment of a three dollar ($3) fee, the county clerk shall reissue the special military-related license plate for use on any other vehicle owned by the same person who purchased the special plate for the current licensing period.~~

~~(18) The cabinet shall promulgate administrative regulations to set forth the documentation required in order to establish a person's qualifications to receive any license plate issued under this section.~~

~~(19) A person seeking a special military-related license plate for a vehicle provided to that person pursuant to an occupation shall conform to the requirements of KRS 186.050(14).~~

~~(20) If a special military-related license plate is lost, stolen, mutilated, or deteriorates to the point where the inscriptions or decals are not discernible, the person to whom the plate was issued may obtain a replacement plate free of charge.~~]

Section 5. KRS 186.042 is amended to read as follows:

(1) For the purposes of this section, "persons with disabilities which limit or impair the ability to walk" means persons who, as determined by a licensed physician:

(a) Cannot walk two hundred (200) feet or sixty-one (61) meters without stopping to rest;

(b) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistant device;

(c) Are restricted by lung disease to the extent that the person's forced respiratory and expiratory volume for one (1) second, when measured by spirometry, is less than one (1) liter, or the arterial oxygen tension is less than sixty (60) mm/hg on room air at rest;

(d) Use portable oxygen;

(e) Have a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association; or

(f) Are severely limited in their ability to walk due to an arthritic, neurological, or orthopedic condition.

(2) On the application of any person with disabilities which limit or impair the ability to walk, who has lost the use of an arm or both arms, or who is blind, the Transportation Cabinet shall issue the person with a disability an accessible parking registration plate or renewal decal designating the vehicle licensed as being owned by or leased by a person with a disability. The license plate or renewal decal may be issued for a passenger car as set forth in KRS 186.050(1), for a motorcycle as set forth in KRS 186.050(2), or for a commercial vehicle as set forth in KRS 186.050(3)(a). The registration plates issued shall bear the international symbol of access adopted by Rehabilitation International in 1969, reading from left to right and shall be followed by numbers or letters the cabinet finds expedient. The cabinet shall not issue the registration plates so designated to any person other than a person with a disability as described above. The ***fee for a disabled license plate shall be as established in Section 1 of this Act***[~~cabinet shall not charge any fee, other than the regular fee for annual registration, for the issuance of the registration plate or renewal decal~~].

(3) The application for a license plate for a person with a disability shall be made on a form prepared by the Transportation Cabinet. For every person seeking this accessible parking license plate, proof of the disability shall be required by:

(a) The county clerk issuing the license plate ascertaining that the applicant is obviously disabled as described in this section; or

(b) A statement from a licensed physician that the applicant is a person with disabilities which limit or impair the ability to walk, a person who has lost the use of an arm, or any person who is blind.

(4)[~~Upon the sale, transfer, or termination of lease of a vehicle licensed as authorized under this section, the owner or lessee shall remove the license plate and return it and the certificate of registration to the county clerk. The clerk shall issue a regular license plate and certificate of registration upon the payment of an eleven dollar fifty cent ($11.50) state fee and a three dollar ($3) clerk's fee. When the accessible parking plate has been presented to the clerk, he shall reissue the plate, free of charge by the Transportation Cabinet and upon payment of a two dollar ($2) clerk's fee, for use on any other vehicle owned or leased by the same person who purchased the accessible parking plate for the current licensing period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who shall forward the license plate to Frankfort.~~

~~(5)~~] When a motor vehicle bearing plates issued to a person with a disability as prescribed in this section is being operated by or for the benefit of the person with a disability, who is in the motor vehicle when the motor vehicle is being operated, the motor vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities, except if local ordinances or police regulations prohibit parking on a highway for the purpose of creating a fire lane; if the ordinances or police regulations provide for the accommodation of heavy traffic during morning, afternoon, or evening hours; or if the motor vehicle is parked in such a manner as to clearly be a traffic hazard.

(5)[~~(6) Any person with a disability seeking to obtain a license plate according to this section who has been provided an automobile pursuant to an occupation shall conform to the requirements of KRS 186.050(14).~~

~~(7)~~] Registration under this section shall expire July 31.

[~~(8) The cabinet may promulgate the administrative regulations necessary to further the purpose of this section.~~]

Section 6. KRS 186.043 is amended to read as follows:

(1) In enacting this section, it is the intention of the General Assembly to recognize the special value of historic vehicles to the Commonwealth, and also to recognize that historic vehicles, because of their limited use and easily identifiable characteristics, do not require the same degree of regulation as other vehicles.

(2) As used in this section, unless the context otherwise requires, "historic vehicle" shall mean all motor vehicles twenty-five (25) years old or older, which are used primarily for exhibition in shows, parades, tours, and other special uses, but not for general transportation.

(3) Historic vehicles shall be registered and licensed by the Transportation Cabinet. The registration shall be in lieu of registration and license required by KRS 186.020 to 186.270.

(4) Upon payment of ***the fee established in Section 1 of this Act***[~~a fee of fifty dollars ($50)~~] and an application in accordance with regulations issued by the Transportation Cabinet, the secretary of the Transportation Cabinet shall issue a certificate of registration and two (2) special license plates of a different color and design than the regular license plate, which, in the judgment of the secretary of the Transportation Cabinet, will best advertise, popularize, and promote the Commonwealth of Kentucky. These plates, besides the word "Kentucky" shall have the words, "Historic Motor Vehicle" inscribed in a conspicuous manner and carry no year date. These plates shall have a serial number beginning with the number "100" and continue in a consecutive numerical sequence.

(5) Historic vehicles may display an authentic Kentucky license plate, twenty-five (25) years or older, or a reproduction of such a plate, if the historic motor vehicle plate and the registration receipt are kept in the vehicle at all times.

(6) The registration license and license plates of historic motor vehicles shall be valid without renewal as long as the vehicle is in existence. If the historic motor vehicle is sold, the registration and license shall be assigned and transferred to the new owner on the records of the Transportation Cabinet upon receipt of an application in accordance with regulations issued by the cabinet and payment of a fee of three dollars ($3).

[~~(7) The secretary of the cabinet may promulgate administrative regulations he deems necessary to further the purpose of this section.~~]

Section 7. KRS 186.174 is amended to read as follows:

(1) For purposes of this section, "personalized license plate" means a license plate issued with personal letters or numbers significant to the applicant and it also means a license plate that ***is issued under this section and has been combined with a special license plate***[~~combines personal letters or numbers significant to the applicant with a special military-related license plate issued under KRS 186.041~~].

(2) [~~Except as provided in this subsection,~~]Any owner or lessee of a motor vehicle that is required to be registered under the provisions of KRS 186.050(1)***,***[~~ or~~] (3)(a), ***or (4)(a)***[~~except taxicabs, airport limousines, and rental motor vehicles~~], or any owner ***or lessee*** of a motorcycle required to be registered under the provisions of KRS 186.050(2) may[~~, in addition to registration under KRS 186.050(1) or (3)(a),~~] obtain a personalized license plate by applying for a personalized license plate in the office of the county clerk and upon payment of ***the fee required in Section 1 of this Act***[~~a twenty-five dollar ($25) fee~~]. A person ***initially*** applying for a personalized license plate shall submit the[~~ initial~~] application and ***appropriate SF fee***[~~twenty-five dollar ($25) fee for a personalized license plate~~] in person to the county clerk, but may submit the annual application to renew the personalized license plate ***and entire fee required in Section 1 of this Act***[~~with the twenty-five ($25) fee~~] by mail to the county clerk. Applications and fees for personalized license plates pursuant to this section must be received by the Transportation Cabinet on or before September 1 preceding the year that the plate or renewal is to be issued. A personalized license plate shall be replaced annually unless the applicant chooses to receive a renewal registration decal. A county clerk shall immediately forward the application and the ***fee required in Section 1 of this Act***[~~twenty-five dollar ($25) fee~~] for a personalized license plate to the Transportation Cabinet. Personalized plates issued under this section expire December 31 each year. The initial fee for a personalized license plate that has been combined with ***special license plate shall be as established in subsection (3) of Section 1 of this Act***[~~a military license plate under KRS 186.041 shall be thirty dollars ($30). The thirty dollar ($30) fee shall be divided between the Transportation Cabinet, which shall receive twenty-five dollars ($25), and the Department of Veterans' Affairs, which shall receive five dollars ($5). The county clerk shall forward the money collected under this subsection for a personalized license plate that has been combined with a military license plate to the Transportation Cabinet who shall forward on a quarterly basis the money to the Department of Veterans' Affairs, which shall deposit the money into the veterans' program trust fund established by KRS 40.460(2)(b). A person renewing a combination personalized/special military license plate under this section may donate five dollars ($5) to support the veterans' program trust fund. Money donated to the fund shall be forwarded by the county clerk to the Transportation Cabinet who shall forward the money on a quarterly basis to the Department of Veterans' Affairs, which shall deposit the money into the veterans' program trust fund established by KRS 40.460(2)(b)~~].

(3) A personalized plate shall not be issued that would conflict with or duplicate the alphabetical-numerical system used for regular license plates or any other license plates issued in the Commonwealth, and shall not contain a combination of more than six (6) letters of the alphabet and Arabic numerals, including spaces. A personalized plate shall not be issued if, in the discretion of the cabinet, it carries a letter or number combinations that carry connotations offensive to good taste and decency. The owner or lessee shall submit an application and ***fee***[~~twenty-five dollar ($25) fee annually~~] to renew a personalized license plate pursuant to the provisions of subsection (2) of this section. Once an applicant obtains a personalized plate, he ***or she*** will have first priority on that plate for each of the following years that he ***or she*** makes timely and proper application.

[~~(4) When registering a vehicle required to be registered under KRS 186.050(1) or (3)(a), the cabinet shall send the personalized plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk of the county of residence shall issue the personalized license plate and receive fourteen dollars fifty cents ($14.50), of which three dollars ($3) shall constitute the clerk's fee and eleven dollars fifty cents ($11.50) shall constitute the cabinet's fee.~~

~~(5) When registering a motorcycle, the cabinet shall send the personalized plate to the county clerk in the county in which the applicant would be required to register his motorcycle. The clerk shall issue the personalized plate and receive three dollars ($3) and three dollars ($3) for each sidecar attachment.~~

~~(6) (a) Upon the sale, transfer, or termination of lease of the motor vehicle bearing the personalized plate, the owner or lessee shall remove it and return it and the certificate of registration to the county clerk. The clerk shall issue a regular license plate and certificate of registration upon payment of an eleven dollar fifty cent ($11.50) state fee and a three dollar ($3) clerk's fee. The vehicle may then be transferred as provided by KRS Chapter 186.~~

~~(b) When the personalized plate has been presented to the clerk, he shall reissue it free of charge by the Transportation Cabinet and upon payment of a two dollar ($2) clerk's fee, for use on any other vehicle of the same classification and category owned or leased by the same person purchasing the personalized plate for the current license period.~~

~~The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.~~

~~(7) Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in KRS 186.050(14).~~

~~(8) If a personalized plate deteriorates, if he has not transferred a vehicle during the current license period, the applicant may obtain a regular plate free.~~

~~(9) The secretary of the Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A necessary to further the purposes of this section.]~~

Section 8. KRS 41.400 is amended to read as follows:

(1) The child victims' trust fund is created as a separate fund in the office of the State Treasurer. The fund shall be expended only as provided in this section.

(2) The State Treasurer shall credit to the trust fund all amounts received for this purpose and any amounts received under KRS 141.440.

(3) The State Treasurer shall invest trust fund money in the same manner as surplus funds are invested. Earnings shall be credited to the trust fund.

(4) Until the total amount of assets in the trust fund exceeds twenty million dollars ($20,000,000), not more than one-half of the money contributed to the trust fund each year, plus the earnings credited to the trust fund during the previous fiscal year, and the money earned by the sale of child victims' trust fund license plates pursuant to KRS ***Chapter 186***~~[186.1867]~~, shall be available for disbursement upon the authorization of the state board as provided in KRS 15.935. After such time that the State Treasurer certifies that the assets in the trust fund exceed twenty million dollars ($20,000,000), only the earnings credited to the trust fund shall be available for disbursement upon the authorization of the state board as provided in KRS 15.935.

(5) Funds granted or funds received as gifts or donations to the child victims' trust fund shall be available for disbursement upon appropriation by the General Assembly, and funds authorized for expenditure shall not be considered assets for purposes of subsection (4) of this section.

Section 9. The following KRS sections are repealed:

186.171 Special license plates for members of Congress.
186.1721 Special license plate for disaster and emergency services staff members.
186.1723 Special license plate for member of Fraternal Order of Police.
186.1724 Special license plates for law enforcement memorial.
186.1751 Special license plate for "Street Rod" vehicle.
186.1761 Nature license plates.
186.177 Special license plates bearing amateur radio call letters.
186.178 Special license plates for General Assembly members.
186.179 Special license plates for Justices or Judges of the Court of Justice.
186.1831 Special license plates for members of a Masonic order.
186.1835 Special license plates for members of the Knights of Columbus.
186.184 Special PTA license plate -- PTA program fund.
186.185 Collegiate license plate.
186.186 Application for special license plates pursuant to KRS 186.186 to 186.1867 -- Vehicles leased or provided pursuant to an occupation -- Renewal, fees, administrative regulations.
186.18651 Special license plates for independent college or university.
186.1867 Special license plates for child victims' trust fund.
186.1868 Special Kentucky Horse Council license plate.
186.18685 Special license plates for Ducks Unlimited.
186.187 Special spay neuter license plate.
186.188 Special Louisville Zoo license plate.
186.189 Special license plates for special groups or special purposes.

The Committee Substitute to **HB 172** is as follows:

HB 172, AN ACT relating to special license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section and in Sections 2, 3, 6, and 7 of this Act:

(a) "Special license plate" means a unique license plate issued under this chapter to a group or organization that readily identifies the operator of the motor vehicle bearing the plate as a member of a group or organization, or a supporter of the work, goals, or mission of a group or organization. The term shall not include regular license plates issued under KRS 186.240;

(b) "Street rod" means a modernized private passenger motor vehicle manufactured prior to the year 1949, or designed or manufactured to resemble a vehicle manufactured prior to 1949;

(c) "SF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by the Transportation Cabinet;

(d) "CF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by a county clerk; and

(e) "EF" means the portion of an initial or renewal fee to obtain a special license plate that is mandated by this chapter to be dedicated for use by a particular group or organization.

(2) The initial purchase fee and renewal fee for a special license plate created under this chapter shall be as established in this subsection and includes the name of group or organization and the total initial and renewal fee required for the plate. The amount in parentheses indicates how the total fee is required to be divided:

(a) Disabled veterans who receive assistance to purchase a vehicle from the United States Veterans' Administration and recipients of the Congressional Medal of Honor:

1. Initial Fee: $0 ($0 SF/$0 CF/$0 EF).

2. Renewal Fee: $0 ($0 SF/$0 CF/$0 EF).

(b) Former prisoners of war, survivors of Pearl Harbor, and members of the Kentucky National Guard:

1. Initial Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

2. Renewal Fee: $3 ($0 SF/$3 CF/$0 EF).

(c) Recipients of the Purple Heart; members of the Civil Air Patrol; active, retired, veteran, reserve, or auxiliary members of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; Merchant Marines who served between December 7, 1941, and August 15, 1945; and disabled veterans who have been declared to be at least seventy percent (70%) service-connected disabled by the United States Department of Veterans' Affairs, or who receive total service-connected disability rating for compensation on individual unemployability and have not received assistance from the United States Department of Veterans' Affairs toward the purchase of a motor vehicle:

1. Initial Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(d) Recipients of the Distinguished Service Cross, Navy Cross, or Air Force Cross:

1. Initial Fee: $3 ($0 SF/$3 CF/$0 EF).

2. Renewal Fee: $3 ($0 SF/$3 CF/$0 EF).

(e) Disabled license plates:

1. Initial Fee: $15 ($12 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(f) Historic vehicles:

1. Initial Fee for two plates: $53 ($50 SF/$3 CF/$0 EF).

2. Renewal Fee: Do not renew annually.

(g) Members of Congress:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(h) Volunteer firefighters:

1. Initial Fee: $15 ($12 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(i) Disaster and emergency services:

1. Initial Fee: $28 ($25 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(j) Fraternal Order of Police:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(k) Law Enforcement Memorial:

1. Initial Fee: $75 ($62 SF/$3 CF/$10 EF to the Kentucky Law Enforcement Memorial Foundation, Inc.).

2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to the Kentucky Law Enforcement Memorial Foundation, Inc.).

(l) Personalized plates:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).

2. Renewal Fee: $40 ($37 SF/$3 CF/$0 EF).

(m) Street rods:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(n) Nature plates:

1. Initial Fee: $25 ($12 SF/$3 CF/$10 EF to Kentucky Heritage Land Conservation Fund established under KRS 146.570).

2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to Kentucky Heritage Land Conservation Fund established under KRS 146.570).

(o) Amateur radio:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(p) Kentucky General Assembly:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(q) Kentucky Court of Justice:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).

2. Renewal Fee: $3 ($0 SF/$3 CF/$0 EF).

(r) Masons:

1. Initial Fee: $28 ($25 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(s) Collegiate plates:

1. Initial Fee: $50 ($37 SF/$3 CF/$10 EF to the general scholarship fund of the university whose name will be bourne on the plate).

2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to the general scholarship fund of the university whose name will be bourne on the plate).

(t) Independent Colleges:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to the Association of Independent Kentucky Colleges and Universities for distribution to the general scholarship funds of the Association's members).

2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to the Association of Independent Kentucky Colleges and Universities for distribution to the general scholarship funds of the Association's members).

(u) Child Victims:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to the child victims' trust fund established under KRS 41.400).

2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the child victims' trust fund established under KRS 41.400).

(v) Kentucky Horse Council:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to the Kentucky Horse Council).

2. Renewal Fee: $20 ($12 SF/$3 CF/ $5 EF to the Kentucky Horse Council).

(w) Ducks Unlimited:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to Kentucky Ducks Unlimited).

2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to Kentucky Ducks Unlimited).

(x) Spay neuter:

1. Initial Fee: $25 ($12 SF/$3 CF/$10 EF to the animal control and care fund established under KRS 258.119).

2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the animal control and care fund established under KRS 258.119).

(3) Any special license plate may be combined with a personalized license plate for a twenty-five dollar ($25) state fee in addition to all other fees for the particular special license plate established in this section and in subsection (3) of Section 2 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) The SF portion of the fee required under Section 1 of this Act shall include the fee to reflectorize all license plates under KRS 186.240. All EF fees required under Section 1 of this Act to be collected by the county clerk at the time of an initial or renewal application shall be remitted annually by the clerk to the group or organization identified under subsection (11) of this section. The county clerk shall be permitted to retain five percent (5%) of the EF fees designated to be remitted under this subsection to offset administrative costs incurred by the clerk in the administration of EF fees.

(2) A special license plate shall be the color and design selected by the group or organization identified in subsection (11) of this section, contingent upon the approval of the Transportation Cabinet. In addition to the design selected for a special license plate, the name "Kentucky," an annual renewal decal, and any combination of letters or numerals required by the cabinet in the design shall also appear on the plate.

(3) Except as provided in Section 1 of this Act, the total initial fee for a special license plate created under this chapter shall be twenty-eight dollars ($28), of which the Transportation Cabinet shall receive twenty-five dollars ($25) and the county clerk shall receive three dollars ($3), and the total renewal fee shall be fifteen dollars ($15), of which the Transportation Cabinet shall receive twelve dollars ($12) and the county clerk shall receive three dollars ($3).

(4) An actual metal special license plate shall be issued on the same schedule as regular license plates are issued under KRS 186.240. The cabinet shall have the discretion to extend the time period that will exist between the date a metal special license plate is issued and the date that regular plates are issued under KRS 186.240. A renewal registration decal shall be issued all other years during the owner's or lessee's birth month, except as provided in subsection (2) of Section 4 of this Act, subsection (5) of Section 5 of this Act, and subsection (2) of Section 7 of this Act. A person seeking a special license plate for a vehicle provided as part of the person's occupation shall conform to the requirements of KRS 186.050(14).

(5) All special license plates issued under this chapter shall be replaced free of charge if the metal plate is destroyed in an accident, deteriorates to a point that the lettering, numbering, or images on the face of the plate are not legible, or the plate is stolen, if the owner or lessee has not transferred the vehicle to which the plate was issued during the current licensing period.

(6) Upon the sale, transfer, or termination of a lease of a vehicle with any special license plate issued under this chapter, the owner or lessee shall remove the special plate and return it and the certificate of registration to the county clerk. The county clerk shall reissue the owner or lessee a regular license plate and a certificate of registration upon payment of a three dollar ($3) county clerk fee. If the owner or lessee requests, the county clerk shall reissue the special plate free of charge for use on any other vehicle of the same classification and category owned by the person during the current licensing period. If the owner or lessee has the special plate reissued to another vehicle, the regular license plate that is being replaced shall be returned to the county clerk who shall forward the plate to the Transportation Cabinet.

(7) A special license plate may be issued to the owner or lessee of a motor vehicle that is required to be registered under KRS 186.050(1), (3)(a), or (4)(a) except a special license plate shall not be issued to a taxicab, airport limousine, or U-Drive-It registered and licensed under this chapter or KRS Chapter 281. A person applying for a special license plate shall apply in the office of the county clerk in the county of the person's residence, except as provided in subsection (3) of Section 4 of this Act. All special license plates issued under this chapter may be combined with a personalized license plate under the provisions of KRS 186.174. The fee to combine a special license plate with a personalized license plate shall be as established in subsection (3) of Section 1 of this Act.

(8) Within thirty (30) days of termination from election to, appointment to, or membership with any group or organization, an applicant to whom a special license plate was issued under this chapter shall return the special license plate to the county clerk of the county of his or her residence, unless the person is merely changing his or her status with the group or organization to retired.

(9) A group wanting a special license plate that is not currently authorized under this chapter may apply to the

Transportation Cabinet for a special plate after the group collects a minimum of nine hundred (900) applications from members of the organization with each application being accompanied by a twenty-five dollar ($25) state fee. The applications and accompanying fee shall be submitted to the cabinet at one (1) time as a whole and shall not be submitted individually or intermittently. After the minimum number of applications and accompanying state fee have been submitted to the Transportation Cabinet, the cabinet shall begin designing and printing the special license plate.

(10) An initial applicant for, or an applicant renewing, his or her registration for a special license plate may, at the time of application, make a voluntary contribution that the county clerk shall remit annually to the group identified, and for the declared purpose stated under subsection (11) of this section. The Transportation Cabinet shall immediately make available to each county clerk the information received under subsection (11) of this section. Any group or organization that receives a mandatory EF fee under Section 1 of this Act shall submit the information required under subsection (11)(a) and (c) of this section to the Transportation Cabinet within thirty (30) days of the effective date of this Act.

(11) If a group wants to receive a donation when the group or organization's special license plate is initially purchased or renewed under subsection (10) of this section, the group shall, at the time the nine hundred (900) applications are submitted to the Transportation Cabinet, also submit a notarized affidavit to the cabinet attesting to:

(a) The name, address, and telephone number for the group or organization. If the group or organization does not have its headquarters in the Commonwealth, the name, address, and telephone number for the group or organization's Kentucky state chapter shall be required. The names of the officers of the group or organization shall also be required. If the entity receiving funds under subsection (10) of this section is not a state government agency, a program unit within a state government agency, or is a group or organization that does not have a statewide chapter, an extra donation for use by the group or organization shall be prohibited;

(b) The amount of the monetary donation the group wants to receive when a person purchases the group or organization's special license plate; and

(c) The purpose for which the donated funds will be used by the group or organization. Donated funds shall not be limited for use by members of the group or organization, and shall not be used for administrative or personnel costs of the group or organization.

(12) All funds received by a group or organization under subsection (10) of this section shall be deposited into an account separate from all other accounts the group or organization may have and the account shall be audited yearly at the expense of the group or organization. The completed audit shall be forwarded to the Transportation Cabinet in Frankfort. One hundred percent (100%) of the funds received by a group or organization under subsection (10) of this section shall be used for the express purpose identified by the group in subsection (11) of this section. Any group or organization that receives a mandatory EF fee under Section 1 of this Act shall comply with the provisions of this subsection.

(13) The secretary of the Transportation Cabinet shall promulgate administrative regulations under KRS Chapter 13A to establish additional rules to implement the issuance of special license plates issued under this chapter, including but not limited to:

(a) Documentation that will be required to accompany an application for a special license plate to provide proof of election to the United States Congress or the Kentucky General Assembly; election or appointment to the Kentucky Court of Justice; membership in a Masonic Order, Fraternal Order of Police, or disaster and emergency services organization; or ownership of an amateur radio operator license; and

(b) The time schedule permissible for a group or organization to request a design change for the special license plate.

(14) Any individual, group, or organization that fails to audit any funds received under this chapter, or that intentionally uses any funds received in any way other than attested to under subsection (11) of this section or for administrative or personnel costs in violation of subsection (11) of this section, shall be guilty of a Class D felony and upon conviction shall, in addition to being subject to criminal penalties, be assessed a mandatory five thousand dollar ($5,000) fine.

SECTION 3. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) The Transportation Cabinet shall, unless directed otherwise by the General Assembly, perpetually produce the following special license plates: military license plates, U.S. Congressional license plates, volunteer firefighter license plates, disaster and emergency services license plates, Fraternal Order of Police license plates, Law Enforcement Memorial license plates, street rod license plates, nature license plates, amateur radio license plates, Kentucky General Assembly license plates, Kentucky Court of Justice license plates, Masonic Order license plates, collegiate license plates, independent college and university license plates, child victims' trust fund license plates, Kentucky Horse Council license plates, Ducks Unlimited license plates, and spay neuter license plates.

(2) The design of the plates identified for perpetual production under this section may be revised upon request of a group or organization requesting a design revision under the provisions of subsection (13) of Section 2 of this Act.

Section 4. KRS 186.041 is amended to read as follows:

(1) ~~[The provisions of this section shall govern the issuance of all special military related license plates. Except as provided in~~

~~subsection (9) of this section, a person who wants to purchase a special military-related license plate shall apply to the county clerk in the county where the person lives on a form prescribed by the Transportation Cabinet.]~~Each initial and renewal application ***for a special military license plate*** shall be accompanied by proof that the person is associated with the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Coast Guard, United States Coast Guard Auxiliary, Kentucky National Guard, Merchant Marines with service between December 7, 1941, and August 15, 1945, or Civil Air Patrol in one (1) of the following ways:

(a) An active component member;

(b) A retired member; or

(c) A veteran who received a discharge under honorable conditions, or the veteran's widow and:

1. Performed twenty-four (24) months of active-duty service;
2. Received an early release due to injuries or other medical condition, or at the convenience of the service;
3. Received a hardship discharge;
4. Was separated or retired due to a disability; or
5. Was determined to have a service-connected disability incurred during the enlistment.

(2) ~~[Initial registration and renewal registration fees for special military-related license plates shall be charged as provided in this subsection and KRS 186.174:~~

~~(a) Disabled veterans and recipients of the Congressional Medal of Honor licensed under subsection (5) of this section shall not be charged an initial registration fee and shall not be charged a renewal registration fee. The license plate and certificate of registration shall be issued free of charge.~~

~~(b) The initial registration fee shall be a seventeen dollar ($17) state fee that shall be divided under the provisions of subsection (3) of this section and that includes the cost to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee, and the renewal registration fee shall be a three dollar ($3) county clerk fee for:~~

~~1. Former prisoners of war licensed under subsection (11) of this section;~~

~~2. Survivors of Pearl Harbor licensed under subsection (12) of this section; and~~

~~3. Members of the National Guard licensed under subsection (13) of this section.~~

~~(c) The initial registration fee shall be a seventeen dollar ($17) state fee that shall be divided under the provisions of subsection (3) of this section, and the renewal registration fee shall be a twelve dollar ($12) state fee that includes the cost to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee for:~~

~~1. Disabled veterans licensed under subsection (6) of this section;~~

~~2. Purple Heart recipients licensed under subsection (10) of this section, except that if a Purple Heart recipient also qualifies as a disabled veteran under subsection (5) of this section, the Purple Heart recipient may receive either a Purple Heart or a disabled veteran's license plate, both initial and renewal, and the certificate of registration free of charge;~~

~~3. Members of the Civil Air Patrol licensed under subsection (14) of this section; and~~

~~4. Other active, retired, veteran, reserve, or auxiliary members of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or Merchant Marines licensed under subsection (15) of this section.~~

~~(d) Recipients of the Distinguished Service Cross, Navy Cross, or Air Force Cross licensed under subsection (9) of this section shall be charged an initial registration fee and a renewal registration fee of three dollars ($3.00) that shall be retained by the county clerk. A recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross licensed under subsection (9) of this section shall not be charged a state fee when initially receiving the plate or upon annual renewal of the plate.~~

~~(e) The initial and renewal registration fee for a military license plate that has been combined with a personalized license plate under the provisions of this section shall be as provided under KRS 186.174.~~

~~(3) The initial state fee collected under subsections (2)(b) and (2)(c) of this section shall be divided between the Transportation Cabinet and the Department of Veterans' Affairs. The Transportation Cabinet shall receive twelve dollars ($12) of the initial state fee and the Department of Veterans' Affairs shall receive five dollars ($5) of the initial state fee. The county clerk shall forward money collected under subsections (2)(b) and (2)(c) of this section to the Transportation Cabinet who shall forward the money to the Department of Veterans' Affairs on a quarterly basis and the department shall deposit the money into the veterans' program trust fund established by KRS 40.460(2)(b). A person renewing a special military license plate issued under this section may donate five dollars ($5) to support the veteran's program trust fund. Money donated under this subsection shall be paid to the county clerk who shall forward the money to the Transportation Cabinet who shall forward the money on a quarterly basis to the Department of Veterans' Affairs and the department shall deposit the money into the veteran's program trust fund established by KRS 40.460(2)(b).~~

~~(4) A special military-related license plate may be issued for use on a passenger car registered under KRS 186.050(1) or for a commercial vehicle registered under KRS 186.050(3)(a) that has a gross laden weight of six thousand (6,000) pounds or less. Except as provided in subsection (7) of this section and KRS 186.174, a license plate issued under this section shall~~

~~have the renewal registration decal issued annually during the applicant's birth month and shall be a five (5) year license plate.~~]The member, retired member, veteran, or reservist may purchase two (2) special military-related license plates annually for vehicles they own or lease. ***A disabled veterans license plate shall have the renewal registration decal issued annually on July 31.***[~~A license plate issued under this section may be combined with a personalized license plate under the provisions of KRS 186.174.~~

~~(5) A recipient of the Congressional Medal of Honor, a recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross, or a disabled veteran who has been or shall be given financial assistance toward the purchase or lease of a motor vehicle by the United States Department of Veterans Affairs under the provisions of 38 U.S.C. sec. 1901, or any other public law that may be passed by the Congress of the United States shall initially and annually be issued a certificate of registration and a special military related license plate free of charge.~~

~~(6) A veteran who has been declared to be at least seventy percent (70%) service-connected disabled by the United States Department of Veterans Affairs, or who is receiving total service connected disability rating for compensation on individual unemployability, and who has not received financial assistance from the United States Department of Veterans Affairs toward the purchase or lease of a motor vehicle shall be eligible for a disabled veterans license plate upon payment of the initial registration fee required in subsection (2)(c) of this section.~~

~~(7) A disabled veterans license plate shall be printed in red, white, and blue colors. Half of the license plate shall be in one (1) color, the other half a second color, and the figures and lettering in the third color. Each plate shall contain the international symbol of access adopted by Rehabilitation International in 1969, the name of the state, the year, the registration number, and the words "Disabled Vet." A disabled veterans license plate shall have the renewal registration decal issued annually on July 31.~~

~~(8) A recipient of the Congressional Medal of Honor shall be eligible for a Congressional Medal of Honor license plate that shall be printed in blue and white colors and shall follow the color scheme for all figures and letters as prescribed for passenger cars. Each plate shall contain the name or an abbreviation of the state and the words "Medal of Honor" and a number uniquely identifying each recipient, in lieu of registration numbers.~~]

(3)[~~(9)~~] A recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross shall be eligible for a Service Cross license plate upon submission of an application to the Kentucky Department of Veterans' Affairs. The recipient shall be required to include with the initial application for a Service Cross license plate a copy of the general order that authorized the award and the recipient's Department of Defense form number 214. The Department of Veterans' Affairs shall verify the documentation submitted with the application for a Service Cross license plate, and if the individual applying for the plate is confirmed to be a recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross, the Department of Veterans' Affairs shall submit the applicant's name to the Transportation Cabinet's Division of Motor Vehicle Licensing not later than September 1 preceding the year that the Service Cross license plate is to be initially issued or renewed. When the Service Cross license plate is ready, the plate shall be sent to the county clerk in the county of the applicant's residence. The Transportation Cabinet's Division of Motor Vehicle Licensing shall inform each applicant in writing that the Service Cross license plate is ready and may be picked up at the county clerk's office.[~~ Each Service Cross license plate shall contain the name or an abbreviation for the state and an alphabetic or numeric designation uniquely identifying each recipient of a Service Cross license plate in lieu of registration numbers. The Transportation Cabinet shall have the authority to select three (3) designs and the appropriate color scheme for each design of the Service Cross license plate. In addition to the requirements of this subsection, the Transportation Cabinet shall have the authority to include other information on the Service Cross license plate.~~] The Transportation Cabinet shall prescribe the type of application form required by this subsection and shall supply the Department of Veterans' Affairs with the application form required by this subsection.

(4)[~~(10) A recipient of a Purple Heart medal shall be eligible for a Purple Heart license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. A Purple Heart license plate shall bear the name "Purple Heart," a registration number, and an appropriate logo to be determined by the Transportation Cabinet.~~

~~(11)~~] A person who is a former prisoner of the enemy during World War I, World War II, the Korean War, or the Vietnam War, or the spouse of a deceased former prisoner of war, shall be eligible for a former prisoner of war license plate[~~ upon payment of the initial registration fee required in subsection (2)(b) of this section. The application shall be accompanied~~] by ***submitting*** written proof from the United States Department of Veterans Affairs or other appropriate federal agency stating the period of time the person or person's spouse was a prisoner of war.[~~ A former prisoner of war license plate shall be printed in red, white, and blue colors. Each plate shall contain the name of the state, the year, the registration number, and the words "Former P.O.W."~~] If a former prisoner of war dies with a vehicle licensed as authorized under this section, the person's surviving spouse may retain the license plate for use on the same vehicle or on another vehicle that complies with the provisions of subsection ***(7) of Section 2 of this Act***[~~(4) of this section~~].

(5)[~~(12)~~] A person who is certified by the Kentucky chapter of the Pearl Harbor Survivors Association as being a survivor of the attack on Pearl Harbor shall be eligible for a Pearl Harbor license plate ***and***[~~upon payment of the initial registration fee required in subsection (2)(b) of this section. The Transportation Cabinet shall issue an applicant an appropriately designed plate identifying the vehicle as registered to a Pearl Harbor survivor. The person~~] shall be required to attach to the special military-related license plate application written evidence from the Kentucky chapter of the Pearl Harbor Survivors

Association that the person:

(a) Was a member of the United States Armed Forces on December 7, 1941;

(b) Was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m., Hawaii time, at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three (3) miles;

(c) Was discharged honorably from the United States Armed Forces; and

(d) Is certified by the Kentucky chapter of the Pearl Harbor Survivors Association.

[~~(13) A person who is a member of the Kentucky National Guard, or a retired member, shall be eligible for a National Guard license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. A National Guard license plate shall bear the name "Kentucky National Guard," a registration number, and the logo of the National Guard. Upon termination of membership in the Kentucky National Guard, except for those who remain eligible through retirement, a person shall comply with the provisions of subsection (16) of this section.~~

~~(14) A person who is a member of the Civil Air Patrol shall be eligible for a Civil Air Patrol license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. A Civil Air Patrol license plate shall bear the name "Civil Air Patrol," a registration number, and an appropriate logo to be determined by the Transportation Cabinet. Upon termination of membership in the Civil Air Patrol, a person shall comply with the provisions of subsection (16) of this section.~~

~~(15) (a) A person who meets the requirements of subsection (1) of this section shall be eligible for a military license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. The plate shall bear:~~

~~1. A seal indicating Army, Navy, Air Force, Marine Corps, or Coast Guard, or, in the case of the Merchant Marines, a seal indicating the branch of service issuing a discharge;~~

~~2. A decal indicating whether the person's status is active duty, reserve duty, veteran, retired veteran, or widow; and, if applicable, a decal for auxiliary in the case of the Coast Guard or a decal for the Merchant Marines;~~

~~3. A veteran's decal may further indicate a veteran's service in a wartime era; and~~

~~4. A registration number.~~

~~(b) Upon termination of membership in the active component or reserves of the United States Armed Forces or the United States Coast Guard, a person shall comply with the provisions of subsection (16) of this section.~~

~~(c) The Transportation Cabinet, in coordination with the Department of Veterans' Affairs, shall promulgate an administrative regulation under KRS Chapter 13A defining criteria for the issuance of specific decals for veterans' wartime service.~~

~~(16) Except for persons changing their status to retired, within thirty (30) days of termination of membership or reserve status in a group eligible for a special military-related license plate, a person issued a military plate under this section or a combined personalized/special military license plate issued under KRS 186.174, shall return the plate to the county clerk of the county of his residence. Upon payment of a three dollar ($3) county clerk fee, the county clerk shall issue the person a regular license plate to replace the plate being surrendered.~~

~~(17) Upon the sale, transfer, or termination of a lease of a motor vehicle for which a special military-related license plate has been issued, the owner shall return the military plate and the certificate of registration to the county clerk. The county clerk shall issue a regular license plate and certificate of registration upon payment of a twelve dollar ($12) state fee which includes the fifty cent ($0.50) fee to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee. The twelve dollar ($12) state fee shall be forwarded to the Transportation Cabinet. Upon request and payment of a three dollar ($3) fee, the county clerk shall reissue the special military related license plate for use on any other vehicle owned by the same person who purchased the special plate for the current licensing period.~~

~~(18) The cabinet shall promulgate administrative regulations to set forth the documentation required in order to establish a person's qualifications to receive any license plate issued under this section.~~

~~(19) A person seeking a special military related license plate for a vehicle provided to that person pursuant to an occupation shall conform to the requirements of KRS 186.050(14).~~

~~(20) If a special military related license plate is lost, stolen, mutilated, or deteriorates to the point where the inscriptions or decals are not discernible, the person to whom the plate was issued may obtain a replacement plate free of charge.~~]

Section 5. KRS 186.042 is amended to read as follows:

(1) For the purposes of this section, "persons with disabilities which limit or impair the ability to walk" means persons who, as determined by a licensed physician:

(a) Cannot walk two hundred (200) feet or sixty-one (61) meters without stopping to rest;

(b) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistant device;

(c) Are restricted by lung disease to the extent that the person's forced respiratory and expiratory volume for one (1) second, when measured by spirometry, is less than one (1) liter, or the arterial oxygen tension is less than sixty (60) mm/hg on room air at rest;

(d) Use portable oxygen;

(e) Have a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association; or

(f) Are severely limited in their ability to walk due to an arthritic, neurological, or orthopedic condition.

(2) On the application of any person with disabilities which limit or impair the ability to walk, who has lost the use of an arm or both arms, or who is blind, the Transportation Cabinet shall issue the person with a disability an accessible parking registration plate or renewal decal designating the vehicle licensed as being owned by or leased by a person with a disability. The license plate or renewal decal may be issued for a passenger car as set forth in KRS 186.050(1), for a motorcycle as set forth in KRS 186.050(2), or for a commercial vehicle as set forth in KRS 186.050(3)(a). The registration plates issued shall bear the international symbol of access adopted by Rehabilitation International in 1969, reading from left to right and shall be followed by numbers or letters the cabinet finds expedient. The cabinet shall not issue the registration plates so designated to any person other than a person with a disability as described above. The ***fee for a disabled license plate shall be as established in Section 1 of this Act***[~~cabinet shall not charge any fee, other than the regular fee for annual registration, for the issuance of the registration plate or renewal decal~~].

(3) The application for a license plate for a person with a disability shall be made on a form prepared by the Transportation Cabinet. For every person seeking this accessible parking license plate, proof of the disability shall be required by:

(a) The county clerk issuing the license plate ascertaining that the applicant is obviously disabled as described in this section; or

(b) A statement from a licensed physician that the applicant is a person with disabilities which limit or impair the ability to walk, a person who has lost the use of an arm, or any person who is blind.

(4)[~~Upon the sale, transfer, or termination of lease of a vehicle licensed as authorized under this section, the owner or lessee shall remove the license plate and return it and the certificate of registration to the county clerk. The clerk shall issue a regular license plate and certificate of registration upon the payment of an eleven dollar fifty cent ($11.50) state fee and a three dollar ($3) clerk's fee. When the accessible parking plate has been presented to the clerk, he shall reissue the plate, free of charge by the Transportation Cabinet and upon payment of a two dollar ($2) clerk's fee, for use on any other vehicle owned or leased by the same person who purchased the accessible parking plate for the current licensing period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who shall forward the license plate to Frankfort.~~

~~(5)~~] When a motor vehicle bearing plates issued to a person with a disability as prescribed in this section is being operated by or for the benefit of the person with a disability, who is in the motor vehicle when the motor vehicle is being operated, the motor vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities, except if local ordinances or police regulations prohibit parking on a highway for the purpose of creating a fire lane; if the ordinances or police regulations provide for the accommodation of heavy traffic during morning, afternoon, or evening hours; or if the motor vehicle is parked in such a manner as to clearly be a traffic hazard.

(5)[~~(6) Any person with a disability seeking to obtain a license plate according to this section who has been provided an automobile pursuant to an occupation shall conform to the requirements of KRS 186.050(14).~~

~~(7)~~] Registration under this section shall expire July 31.

[~~(8) The cabinet may promulgate the administrative regulations necessary to further the purpose of this section.~~]

Section 6. KRS 186.043 is amended to read as follows:

(1) In enacting this section, it is the intention of the General Assembly to recognize the special value of historic vehicles to the Commonwealth, and also to recognize that historic vehicles, because of their limited use and easily identifiable characteristics, do not require the same degree of regulation as other vehicles.

(2) As used in this section, unless the context otherwise requires, "historic vehicle" shall mean all motor vehicles twenty-five (25) years old or older, which are used primarily for exhibition in shows, parades, tours, and other special uses, but not for general transportation.

(3) Historic vehicles shall be registered and licensed by the Transportation Cabinet. The registration shall be in lieu of registration and license required by KRS 186.020 to 186.270.

(4) Upon payment of ***the fee established in Section 1 of this Act***[~~a fee of fifty dollars ($50)~~] and an application in accordance with regulations issued by the Transportation Cabinet, the secretary of the Transportation Cabinet shall issue a certificate of registration and two (2) special license plates of a different color and design than the regular license plate, which, in the judgment of the secretary of the Transportation Cabinet, will best advertise, popularize, and promote the Commonwealth of Kentucky. These plates, besides the word "Kentucky" shall have the words, "Historic Motor Vehicle" inscribed in a conspicuous manner and carry no year date. These plates shall have a serial number beginning with the number "100" and continue in a consecutive numerical sequence.

(5) Historic vehicles may display an authentic Kentucky license plate, twenty-five (25) years or older, or a reproduction of such a plate, if the historic motor vehicle plate and the registration receipt are kept in the vehicle at all times.

(6) The registration license and license plates of historic motor vehicles shall be valid without renewal as long as the vehicle is in existence. If the historic motor vehicle is sold, the registration and license shall be assigned and transferred to the new owner on the records of the Transportation Cabinet upon receipt of an application in accordance with regulations issued by the cabinet and payment of a fee of three dollars ($3).

[~~(7) The secretary of the cabinet may promulgate administrative regulations he deems necessary to further the purpose of this section.~~]

Section 7. KRS 186.174 is amended to read as follows:

(1) For purposes of this section, "personalized license plate" means a license plate issued with personal letters or numbers significant to the applicant and it also means a license plate that ***is issued under this section and has been combined with a special license plate***[~~combines personal letters or numbers significant to the applicant with a special military-related license plate issued under KRS 186.041~~].

(2) [~~Except as provided in this subsection, ~~]Any owner or lessee of a motor vehicle that is required to be registered under the provisions of KRS 186.050(1)***,***[~~ or~~] (3)(a), ***or (4)(a)***[~~except taxicabs, airport limousines, and rental motor vehicles~~], or any owner ***or lessee*** of a motorcycle required to be registered under the provisions of KRS 186.050(2) may[~~, in addition to registration under KRS 186.050(1) or (3)(a),~~] obtain a personalized license plate by applying for a personalized license plate in the office of the county clerk and upon payment of ***the fee required in Section 1 of this Act***[~~a twenty-five dollar ($25) fee~~]. A person ***initially*** applying for a personalized license plate shall submit the[~~ initial~~] application and ***appropriate SF fee***[~~twenty five dollar ($25) fee for a personalized license plate~~] in person to the county clerk, but may submit the annual application to renew the personalized license plate ***and entire fee required in Section 1 of this Act***[~~with the twenty-five ($25) fee~~] by mail to the county clerk. Applications and fees for personalized license plates pursuant to this section must be received by the Transportation Cabinet on or before September 1 preceding the year that the plate or renewal is to be issued. A personalized license plate shall be replaced annually unless the applicant chooses to receive a renewal registration decal. A county clerk shall immediately forward the application and the ***fee required in Section 1 of this Act***[~~twenty five dollar ($25) fee~~] for a personalized license plate to the Transportation Cabinet. Personalized plates issued under this section expire December 31 each year. The initial fee for a personalized license plate that has been combined with ***special license plate shall be as established in subsection (3) of Section 1 of this Act***[~~a military license plate under KRS 186.041 shall be thirty dollars ($30). The thirty dollar ($30) fee shall be divided between the Transportation Cabinet, which shall receive twenty-five dollars ($25), and the Department of Veterans' Affairs, which shall receive five dollars ($5). The county clerk shall forward the money collected under this subsection for a personalized license plate that has been combined with a military license plate to the Transportation Cabinet who shall forward on a quarterly basis the money to the Department of Veterans' Affairs, which shall deposit the money into the veterans' program trust fund established by KRS 40.460(2)(b). A person renewing a combination personalized/special military license plate under this section may donate five dollars ($5) to support the veterans' program trust fund. Money donated to the fund shall be forwarded by the county clerk to the Transportation Cabinet who shall forward the money on a quarterly basis to the Department of Veterans' Affairs, which shall deposit the money into the veterans' program trust fund established by KRS 40.460(2)(b)~~].

(3) A personalized plate shall not be issued that would conflict with or duplicate the alphabetical-numerical system used for regular license plates or any other license plates issued in the Commonwealth, and shall not contain a combination of more than six (6) letters of the alphabet and Arabic numerals, including spaces. A personalized plate shall not be issued if, in the discretion of the cabinet, it carries a letter or number combinations that carry connotations offensive to good taste and decency. The owner or lessee shall submit an application and ***fee***[~~twenty-five dollar ($25) fee annually~~] to renew a personalized license plate pursuant to the provisions of subsection (2) of this section. Once an applicant obtains a personalized plate, he ***or she*** will have first priority on that plate for each of the following years that he ***or she*** makes timely and proper application.

[~~(4) When registering a vehicle required to be registered under KRS 186.050(1) or (3)(a), the cabinet shall send the personalized plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk of the county of residence shall issue the personalized license plate and receive fourteen dollars fifty cents ($14.50), of which three dollars ($3) shall constitute the clerk's fee and eleven dollars fifty cents ($11.50) shall constitute the cabinet's fee.~~

~~(5) When registering a motorcycle, the cabinet shall send the personalized plate to the county clerk in the county in which the applicant would be required to register his motorcycle. The clerk shall issue the personalized plate and receive three dollars ($3) and three dollars ($3) for each sidecar attachment.~~

~~(6) (a) Upon the sale, transfer, or termination of lease of the motor vehicle bearing the personalized plate, the owner or lessee shall remove it and return it and the certificate of registration to the county clerk. The clerk shall issue a regular license plate and certificate of registration upon payment of an eleven dollar fifty cent ($11.50) state fee and a three dollar ($3) clerk's fee. The vehicle may then be transferred as provided by KRS Chapter 186.~~

~~(b) When the personalized plate has been presented to the clerk, he shall reissue it free of charge by the Transportation Cabinet and upon payment of a two dollar ($2) clerk's fee, for use on any other vehicle of the same classification and category owned or leased by the same person purchasing the personalized plate for the current license period.~~

~~The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.~~

~~(7) Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in KRS 186.050(14).~~

~~(8) If a personalized plate deteriorates, if he has not transferred a vehicle during the current license period, the applicant may obtain a regular plate free.~~

~~(9) The secretary of the Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A necessary to further the purposes of this section.~~]

Section 8. KRS 41.400 is amended to read as follows:

(1) The child victims' trust fund is created as a separate fund in the office of the State Treasurer. The fund shall be expended only as provided in this section.

(2) The State Treasurer shall credit to the trust fund all amounts received for this purpose and any amounts received under KRS 141.440.

(3) The State Treasurer shall invest trust fund money in the same manner as surplus funds are invested. Earnings shall be credited to the trust fund.

(4) Until the total amount of assets in the trust fund exceeds twenty million dollars ($20,000,000), not more than one-half of the money contributed to the trust fund each year, plus the earnings credited to the trust fund during the previous fiscal year, and the money earned by the sale of child victims' trust fund license plates pursuant to KRS ***Chapter 186***[~~186.1867~~], shall be available for disbursement upon the authorization of the state board as provided in KRS 15.935. After such time that the State Treasurer certifies that the assets in the trust fund exceed twenty million dollars ($20,000,000), only the earnings credited to the trust fund shall be available for disbursement upon the authorization of the state board as provided in KRS 15.935.

(5) Funds granted or funds received as gifts or donations to the child victims' trust fund shall be available for disbursement upon appropriation by the General Assembly, and funds authorized for expenditure shall not be considered assets for purposes of subsection (4) of this section.

Section 9. The following KRS sections are repealed:

186.171 Special license plates for members of Congress.

186.1721 Special license plate for disaster and emergency services staff members.

186.1723 Special license plate for member of Fraternal Order of Police.

186.1724 Special license plates for law enforcement memorial.

186.1751 Special license plate for "Street Rod" vehicle.

186.1761 Nature license plates.

186.177 Special license plates bearing amateur radio call letters.

186.178 Special license plates for General Assembly members.

186.179 Special license plates for Justices or Judges of the Court of Justice.

186.1831 Special license plates for members of a Masonic order.

186.1835 Special license plates for members of the Knights of Columbus.

186.184 Special PTA license plate -- PTA program fund.

186.185 Collegiate license plate.

186.186 Application for special license plates pursuant to KRS 186.186 to 186.1867 -- Vehicles leased or provided pursuant to an occupation -- Renewal, fees, administrative regulations.

186.18651 Special license plates for independent college or university.

186.1867 Special license plates for child victims' trust fund.

186.1868 Special Kentucky Horse Council license plate.

186.18685 Special license plates for Ducks Unlimited.

186.187 Special spay neuter license plate.

186.188 Special Louisville Zoo license plate.

186.189 Special license plates for special groups or special purposes.

HB 357, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS 189.752 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Abandoned vehicle" means a motor vehicle that is left for three (3) consecutive days on or beside a state highway, county road, or city street;

(b) "Cabinet" means the Kentucky Transportation Cabinet;

(c) "City street" means any public road under the jurisdiction of any incorporated city within the Commonwealth;

(d) "County road" means any public road that is under the jurisdiction of a fiscal court or county commissioner form of government;

(e) "Motor vehicle" has the same meaning as defined in KRS 189.010, except the term shall not include a "moped" as defined in KRS 189.285;

(f) "Owner" means:

1. The person or entity recorded on the certificate of registration for a motor vehicle issued by the cabinet if the person listed on the certificate of registration can be located and contacted by a law enforcement agency or towing company; or

2. The person or entity recorded on the title for a motor vehicle issued by the cabinet if the person listed on the title is not the same person listed on the certificate of registration, and the person listed on the certificate of registration cannot be located or contacted by a law enforcement agency or towing company after complying with the provisions of Section 4 of this Act;

(g) "State highway" means any public road maintained by the cabinet; and

(h) "Towing company" a person engaged in the business of towing, recovering, or storing motor vehicles.

(2) Any motor vehicle left on or beside a state highway, county road, or city street for three (3) consecutive days shall be presumed to be an abandoned vehicle. An abandoned vehicle shall be ordered to be removed by the law enforcement agency with authority over the roadway.

(3) To remove an abandoned vehicle, the law enforcement agency shall contact a towing company and, at the time of contacting a towing company, shall issue a citation to the owner of the vehicle for abandoning the motor vehicle. The law enforcement agency shall identify the owner of the abandoned vehicle, if possible, through the vehicle's vehicle identification number, license plates, or any other method available to the agency and shall, within twenty-four (24) hours of issuing the citation, notify the owner by certified mail to the last known address of the owner of the citation, the court date listed on the citation, and the penalties established in this section and subsection (18) of Section 5 of this Act, to which the owner shall be subject.

(4) A towing company who tows, recovers, or stores an abandoned vehicle shall follow the provisions established in Section 4 of this Act to contact the owner of an abandoned motor vehicle. If the towing company is unable to contact the owner listed on the abandoned vehicle's certificate of registration and a different person is listed as the owner on the title of the abandoned vehicle, the towing company shall comply with the provisions of subsection (5) of this section.

(5) When a towing company has towed, recovered, or stored an abandoned vehicle and the owner of the vehicle is the person or entity identified in subsection (1)(f)2. of this section, the owner shall not be subject to the penalties established in this section and the fines issued under Section 5 of this Act shall be dismissed if the owner:

(a) Contacts the towing company within three (3) business days of receiving the notification required under Section 4 of this Act;

(b) Pays the towing company for the towing, recovery, and storage charges associated with towing, recovering, or storing the abandoned vehicle; and

(c) Upon payment, immediately claims possession of the abandoned vehicle and removes the vehicle from the premises of the towing company.

(6) The cabinet shall immediately suspend the operator's license or instruction permit of any person who has failed to appear pursuant to the citation issued in subsection (3) of this section and pay the fine required under subsection (18) of Section 5 of this Act and any associated court costs. The operator's license or instruction permit shall remain suspended until:

(a) The towing company has been paid in full for the towing, recovery, and storage charges associated with towing, recovering, or storing the abandoned vehicle; and

(b) The fine required under subsection (18) of Section 5 of this Act is paid.

(7) The cabinet shall immediately suspend the certificate of registration for all motor vehicles registered in the name of any person who has had his or her operator's license or instruction permit suspended under subsection (6) of this section. The certificate of registration shall remain suspended for all vehicles registered in the person's name until:

(a) The towing company has been paid in full for the towing, recovery, and storage charges associated with towing, recovering, or storing the abandoned vehicle; and

(b) The fine required under subsection (18) of Section 5 of this Act is paid.

Section 2. KRS 189.450 is amended to read as follows:

(1) ***A***[~~No~~] person shall ***not*** stop a vehicle, leave it standing or cause it to stop or to be left standing upon any portion of the roadway; provided, however, that this section shall not be construed to prevent parking in front of a private residence off the roadway or street in a city or suburban area where such parking is otherwise permitted, as long as the vehicle so parked does not impede the flow of traffic. This subsection shall not apply to:

(a) A vehicle that has been disabled on[~~ the right of way of such~~] a highway in[~~ such~~] a manner and to ***an***[~~such~~] extent that it is impossible to avoid the occupation of the shoulder of a ***state highway, county road, or city street as defined in Section 1 of this Act,***[~~state maintained highway~~] or impracticable to remove it from the shoulder of the highway until repairs have been made or sufficient help obtained for its removal.[~~ In no event shall~~] A disabled vehicle ***shall not*** remain on the shoulder of a ***state***[~~state-maintained~~] highway for twenty-four (24) hours or more;

(b) Motor vehicles when required to stop in obedience to the provisions of any section of the Kentucky Revised Statutes or any traffic ordinance, regulation or sign or the command of any peace officer;

(c) Vehicles operating as common carriers of passengers for hire and school buses taking passengers on ***the***[~~such~~] vehicle or discharging passengers therefrom, provided that ***the***[~~no such~~] vehicle shall ***not*** stop for such purposes at a place on the highway which does not afford reasonable visibility to approaching motor vehicles from both directions; or

(d) Any vehicle required to stop by reason of an obstruction to its progress.

(2) When any police officer finds a vehicle standing upon[~~ such~~] a highway in violation of this section, he ***or she*** may move or cause to be moved the vehicle, or require the operator or other person in charge of the vehicle to move it. The police officer may cause the vehicle to be removed by ordering ***a towing company as defined in Section 1 of this Act***[~~any person engaged in the business of storing or towing motor vehicles~~] to remove the vehicle to a site chosen by ***the towing company***[~~such person~~]. Ownership of the vehicle shall be determined ***as established in Section 1 of this Act. Within twenty-four (24) hours of identifying the owner of the vehicle***[~~by the police officer's enforcement agency through the vehicle's license plates, serial number or other means of determining ownership. As soon as practicable~~], the police officer's enforcement agency shall notify the owner by ***certififed*** mail that***:***

(a) The vehicle was illegally upon public property;

(b) The name and address of the storage facility where the vehicle is located;

(c) That removal of the vehicle from the storage facility will involve payment of towing***, recovery,*** and storage charges;

(d) That the owner may be subject to penalties under Sections 1 and 5 of this Act; and

(e) That the vehicle may be sold pursuant to the provisions of KRS 376.275 if not claimed within ***thirty (30)***[~~sixty (60)~~] days. [~~No ~~]Notification shall ***not*** be required if ownership cannot be determined. In the event of a sale pursuant to KRS 376.275, the state shall receive any proceeds after ***all towing, recovery, and storage charges have been paid to the appropriate towing company, and*** the satisfaction of all liens placed on the vehicle.

(3) ***A***[~~No~~] vehicle shall ***not*** be parked, stopped, or allowed to stand on the shoulders of any toll road, interstate highway, or other fully controlled access highway, including ramps thereto***. A***[~~, nor shall any~~] vehicle registered at a gross weight of over forty-four thousand (44,000) pounds ***shall not*** be parked, stopped or allowed to stand on the shoulders of any state-maintained highway ***unless,***[~~except that~~] in the case of emergency[~~,~~] or in response to a peace officer's signal,[~~ vehicles shall be permitted to stop on the shoulders to the right of the traveled way with~~] all wheels and projecting parts of the vehicles, including the load, ***are*** completely clear of the traveled way. Parking of any vehicle which is disabled on the shoulders of a toll road, interstate highway, other fully controlled access highway, including ramps thereto, or any state-maintained highway not mentioned in this section for twenty-four (24) hours continuously is prohibited and vehicles violating this provision may be towed away at the cost of the owner.

(4) When any police officer finds a vehicle unattended upon any bridge or causeway or in a tunnel where the vehicle constitutes an obstruction to traffic, the officer may provide for the removal of the vehicle to the nearest garage or other place of safety as provided in subsection (2) of this section.

(5) ***A***[~~No~~] person shall ***not*** stop or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in the following places:

(a) On a sidewalk;

(b) In front of sidewalk ramps provided for persons with disabilities;

(c) In front of a public or private driveway;

(d) Within an intersection;

(e) At any place where official signs prohibit stopping or parking; or

(f) Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway.

(6) ***A***[~~No~~] person shall ***not*** move a vehicle not lawfully under his control into any[~~ such prohibited~~] area ***prohibited by this section***.

(7) The restrictions in subsection (5)(e) of this section shall not apply to sheriffs and their deputies or police officers when operating properly identified vehicles during performance of their official duties.

Section 3. KRS 376.268 is amended to read as follows:

As used in KRS 376.270 and 376.275, "motor vehicle" ***has the same meaning as in Section 1 of this Act and*** shall include vessels used or designed for navigation of or operation on waterways, rivers, lakes, and streams[~~, as well as those used or designed for operation on the public highways~~].

Section 4. KRS 376.275 is amended to read as follows:

(1) When a motor vehicle has been involuntarily towed or transported pursuant to order of police, other public authority, or private person or business for any reason or when the vehicle has been stolen or misappropriated and its removal from the public ways has been ordered by police, other public authority, or by private person or business, or in any other situation where a motor vehicle has been involuntarily towed or transported by order of police, other authority, or by private person or business, the police, other authority, private person or business shall attempt to ascertain from the Transportation Cabinet the identity of the registered owner of the motor vehicle or lessor of a motor carrier as defined in KRS Chapter 281 and within ten (10) business days of the removal shall, by certified mail, attempt to notify the registered owner at the address of record of the make, model, license number and vehicle identification number of the vehicle and of the location of the vehicle, and the requirements for securing the release of said motor vehicle.

(2) If a vehicle described in subsection (1) of this section is placed in a garage or other storage facility, the owner of the facility shall attempt to provide the notice provided in subsection (1) of this section, by certified mail, to the registered owner***, as defined in Section 1 of this Act,*** at the address of record of the motor vehicle or lessor of a motor carrier as defined in KRS Chapter 281 within ten (10) business days of recovery of, or taking possession of the motor vehicle. The notice shall contain the information as to the make, model, license number and vehicle identification number of the vehicle, the location of the vehicle and the amount of ***towing, recovery, and storage***[~~reasonable~~] charges due on the vehicle. When the owner of the facility fails to provide notice as provided herein, the motor vehicle storage facility shall forfeit all ***towing, recovery, and*** storage fees accrued after ten (10) business days from the date of tow. This subsection shall not apply to a garage or storage facility owned or operated by a government entity.

(3) Any person engaged in the business of storing or towing motor vehicles, who has substantially complied with the aforementioned requirements of this section, shall have a lien on the motor vehicle, for the[~~ reasonable or agreed~~] charges for ***towing, recovering, or*** storing[~~ or towing~~] the vehicle, as long as it remains in his possession. If after a period of ***thirty (30)***[~~forty-five (45)~~] days the[~~ reasonable or agreed~~] charges for ***towing, recovering, or*** storing[~~ or towing~~] a motor vehicle have not been paid, the motor vehicle may be sold to pay the charges after the owner***, as defined in Section 1 of this Act,*** has been notified by certified mail ten (10) days prior to the time and place of the sale. If the proceeds of the sale of any vehicle pursuant to this section are insufficient to satisfy accrued charges for towing, ***recovery***[~~transporting~~], and storage, the sale and collection of proceeds shall not constitute a waiver or release of responsibility for payment of unpaid towing, ***recovery***[~~transporting~~], and storage charges by the owner or responsible casualty insurer of the vehicle. This lien shall be subject to prior recorded liens.

(4) The provisions of this section shall not apply when a local government causes a vehicle to be towed pursuant to KRS 82.605 to 82.640 or if state government causes a vehicle to be towed.

Section 5. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents ($0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars ($100) and shall not be more than five hundred dollars ($500).

(b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars ($100); otherwise, the penalties in paragraph (a) of this subsection shall apply.

(c) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle ***on or beside***[~~upon the right of way of~~] a state highway***, county road, or city street*** for three (3) consecutive days shall***:***

(a) For a first offense be fined five hundred dollars ($500); and

(b) For a second or subsequent offense be fined one thousand dollars ($1,000) and may be[~~ fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or~~] imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(27) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

Section 6. The following KRS sections are repealed:

189.751 Abandonment of vehicle on county road or city street -- Penalty -- Removal -- Disposition.

189.753 Abandonment of motor vehicle on state highway -- Presumption -- Notification -- Removal.

The Committee Substitute to **HB 357** is as follows:

HB 357, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS 189.752 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Abandoned vehicle" means a motor vehicle that is left for three (3) consecutive days on or beside a state highway, county road, or city street. The term shall not mean a vehicle parked in front of a private residence in compliance with Section 2 of this Act;

(b) "Cabinet" means the Kentucky Transportation Cabinet;

(c) "City street" means any public road under the jurisdiction of any incorporated city within the Commonwealth;

(d) "County road" means any public road that is under the jurisdiction of a fiscal court or county commissioner form of government;

(e) "Motor vehicle" has the same meaning as defined in KRS 189.010, except the term shall not include a "moped" as defined in KRS 189.285;

(f) "Owner" means as defined in KRS 186.010;

(g) "State highway" means any public road maintained by the cabinet; and

(h) "Towing company" a person engaged in the business of towing, recovering, or storing motor vehicles.

(2) Any motor vehicle left on or beside a state highway, county road, or city street for three (3) consecutive days shall be presumed to be an abandoned vehicle. An abandoned vehicle shall be ordered to be removed by the law enforcement agency with authority over the roadway.

(3) To remove an abandoned vehicle, the law enforcement agency shall contact a towing company and, at the time of contacting a towing company, shall issue a citation to the owner of the vehicle for abandoning the motor vehicle. The law enforcement agency shall identify the owner of the abandoned vehicle, if possible, through the vehicle's vehicle identification number, license plates, or any other method available to the agency and shall, within twenty-four (24) hours of issuing the citation, notify the owner by certified mail to the last known address of the owner of the citation, the court date listed on the citation, and the penalties established in this section and subsection (18) of Section 5 of this Act, to which the owner shall be subject.

(4) A towing company who tows, recovers, or stores an abandoned vehicle shall follow the provisions established in Section 4 of this Act to contact the owner of an abandoned motor vehicle. If the towing company is unable to contact the owner listed on the abandoned vehicle's certificate of registration and a different person is listed as the owner on the title of the abandoned vehicle, the towing company shall comply with the provisions of subsection (5) of this section.

(5) When a towing company has towed, recovered, or stored an abandoned vehicle and the owner of the vehicle is the person or entity identified in subsection (1)(f)2. of this section, the owner shall not be subject to the penalties established in this section and the fines issued under Section 5 of this Act shall be dismissed if the owner:

- *(a) Contacts the towing company within three (3) business days of receiving the notification required under Section 4 of this Act;*
- *(b) Pays the towing company for the towing, recovery, and storage charges associated with towing, recovering, or storing the abandoned vehicle; and*
- *(c) Upon payment, immediately claims possession of the abandoned vehicle and removes the vehicle from the premises of the towing company.*

(6) The cabinet shall immediately suspend the operator's license or instruction permit of any person who has failed to appear pursuant to the citation issued in subsection (3) of this section and pay the fine required under subsection (18) of Section 5 of this Act and any associated court costs. The operator's license or instruction permit shall remain suspended until:

- *(a) The towing company has been paid in full for the towing, recovery, and storage charges associated with towing, recovering, or storing the abandoned vehicle; and*
- *(b) The fine required under subsection (18) of Section 5 of this Act is paid.*

(7) The cabinet shall immediately suspend the certificate of registration for all motor vehicles registered in the name of any person who has had his or her operator's license or instruction permit suspended under subsection (6) of this section. The certificate of registration shall remain suspended for all vehicles registered in the person's name until:

- *(a) The towing company has been paid in full for the towing, recovery, and storage charges associated with towing, recovering, or storing the abandoned vehicle; and*
- *(b) The fine required under subsection (18) of Section 5 of this Act is paid.*

Section 2. KRS 189.450 is amended to read as follows:

(1) *A*[~~No~~] person shall *not* stop a vehicle, leave it standing or cause it to stop or to be left standing upon any portion of the roadway; provided, however, that this section shall not be construed to prevent parking in front of a private residence off the roadway or street in a city or suburban area where such parking is otherwise permitted, as long as the vehicle so parked does not impede the flow of traffic. This subsection shall not apply to:

- (a) A vehicle that has been disabled on[~~ the right-of-way of such~~] a highway in[~~ such~~] a manner and to *an*[~~such~~] extent that it is impossible to avoid the occupation of the shoulder of a *state highway, county road, or city street as defined in Section 1 of this Act,*[~~state maintained highway~~] or impracticable to remove it from the shoulder of the highway until repairs have been made or sufficient help obtained for its removal.[~~ In no event shall~~] A disabled vehicle *shall not* remain on the shoulder of a *state*[~~state maintained~~] highway for twenty-four (24) hours or more;
- (b) Motor vehicles when required to stop in obedience to the provisions of any section of the Kentucky Revised Statutes or any traffic ordinance, regulation or sign or the command of any peace officer;
- (c) Vehicles operating as common carriers of passengers for hire and school buses taking passengers on *the*[~~such~~] vehicle or discharging passengers therefrom, provided that *the*[~~no such~~] vehicle shall *not* stop for such purposes at a place on the highway which does not afford reasonable visibility to approaching motor vehicles from both directions; or
- (d) Any vehicle required to stop by reason of an obstruction to its progress.

(2) When any police officer finds a vehicle standing upon[~~ such~~] a highway in violation of this section, he *or she* may move or cause to be moved the vehicle, or require the operator or other person in charge of the vehicle to move it. The police officer may cause the vehicle to be removed by ordering *a towing company as defined in Section 1 of this Act*[~~any person engaged in the business of storing or towing motor vehicles~~] to remove the vehicle to a site chosen by *the towing company*[~~such person~~]. Ownership of the vehicle shall be determined *as established in Section 1 of this Act. Within twenty-four (24) hours of identifying the owner of the vehicle*[~~by the police officer's enforcement agency through the~~

~~vehicle's license plates, serial number or other means of determining ownership. As soon as practicable~~], the police officer's enforcement agency shall notify the owner by ***certified*** mail that***:***

(a) The vehicle was illegally upon public property;

(b) The name and address of the storage facility where the vehicle is located;

(c) That removal of the vehicle from the storage facility will involve payment of towing***, recovery,*** and storage charges;

(d) That the owner may be subject to penalties under Sections 1 and 5 of this Act; and

(e) That the vehicle may be sold pursuant to the provisions of KRS 376.275 if not claimed within ***thirty (30)***[~~sixty (60)~~] days. [~~No ~~]Notification shall ***not*** be required if ownership cannot be determined. In the event of a sale pursuant to KRS 376.275, the state shall receive any proceeds after ***all towing, recovery, and storage charges have been paid to the appropriate towing company, and*** the satisfaction of all liens placed on the vehicle.

(3) ***A***[~~No~~] vehicle shall ***not*** be parked, stopped, or allowed to stand on the shoulders of any toll road, interstate highway, or other fully controlled access highway, including ramps thereto***. A***[~~, nor shall any~~] vehicle registered at a gross weight of over forty-four thousand (44,000) pounds ***shall not*** be parked, stopped or allowed to stand on the shoulders of any state-maintained highway ***unless,***[~~except that~~] in the case of emergency[~~,~~] or in response to a peace officer's signal,[~~ vehicles shall be permitted to stop on the shoulders to the right of the traveled way with~~] all wheels and projecting parts of the vehicles, including the load, ***are*** completely clear of the traveled way. Parking of any vehicle which is disabled on the shoulders of a toll road, interstate highway, other fully controlled access highway, including ramps thereto, or any state-maintained highway not mentioned in this section for twenty-four (24) hours continuously is prohibited and vehicles violating this provision may be towed away at the cost of the owner.

(4) When any police officer finds a vehicle unattended upon any bridge or causeway or in a tunnel where the vehicle constitutes an obstruction to traffic, the officer may provide for the removal of the vehicle to the nearest garage or other place of safety as provided in subsection (2) of this section.

(5) ***A***[~~No~~] person shall ***not*** stop or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in the following places:

(a) On a sidewalk;

(b) In front of sidewalk ramps provided for persons with disabilities;

(c) In front of a public or private driveway;

(d) Within an intersection;

(e) At any place where official signs prohibit stopping or parking; or

(f) Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway.

(6) ***A***[~~No~~] person shall ***not*** move a vehicle not lawfully under his control into any[~~ such prohibited~~] area ***prohibited by this section***.

(7) The restrictions in subsection (5)(e) of this section shall not apply to sheriffs and their deputies or police officers when operating properly identified vehicles during performance of their official duties.

Section 3. KRS 376.268 is amended to read as follows:

As used in KRS 376.270 and 376.275, "motor vehicle" ***has the same meaning as in Section 1 of this Act and*** shall include vessels used or designed for navigation of or operation on waterways, rivers, lakes, and streams[~~, as well as those used or designed for operation on the public highways~~].

Section 4. KRS 376.275 is amended to read as follows:

(1) When a motor vehicle has been involuntarily towed or transported pursuant to order of police, other public authority, or private person or business for any reason or when the vehicle has been stolen or misappropriated and its removal from the public ways has been ordered by police, other public authority, or by private person or business, or in any other situation where a motor vehicle has been involuntarily towed or transported by order of police, other authority, or by private person or business, the police, other authority, private person or business shall attempt to ascertain from the Transportation Cabinet the identity of the registered owner of the motor vehicle or lessor of a motor carrier as defined in KRS Chapter 281 and within ten (10) business days of the removal shall, by certified mail, attempt to notify the registered owner at the address of record of the make, model, license number and vehicle identification number of the vehicle and of the location of the vehicle, and the requirements for securing the release of said motor vehicle.

(2) If a vehicle described in subsection (1) of this section is placed in a garage or other storage facility, the owner of the facility shall attempt to provide the notice provided in subsection (1) of this section, by certified mail, to the registered owner***, as defined in Section 1 of this Act,*** at the address of record of the motor vehicle or lessor of a motor carrier as defined in KRS Chapter 281 within ten (10) business days of recovery of, or taking possession of the motor vehicle. The notice shall contain the information as to the make, model, license number and vehicle identification number of the vehicle, the location of the vehicle and the amount of ***towing, recovery, and storage***[~~reasonable~~] charges due on the vehicle. When the owner of the facility fails to provide notice as provided herein, the motor vehicle storage facility shall

forfeit all ***towing, recovery, and*** storage fees accrued after ten (10) business days from the date of tow. This subsection shall not apply to a garage or storage facility owned or operated by a government entity.

(3) Any person engaged in the business of storing or towing motor vehicles, who has substantially complied with the aforementioned requirements of this section, shall have a lien on the motor vehicle, for the[~~ reasonable or agreed~~] charges for ***towing, recovering, or*** storing[~~ or towing~~] the vehicle, as long as it remains in his possession. If after a period of ***thirty (30)***[~~forty-five (45)~~] days the[~~ reasonable or agreed~~] charges for ***towing, recovering, or*** storing[~~ or towing~~] a motor vehicle have not been paid, the motor vehicle may be sold to pay the charges after the owner***, as defined in Section 1 of this Act,*** has been notified by certified mail ten (10) days prior to the time and place of the sale. If the proceeds of the sale of any vehicle pursuant to this section are insufficient to satisfy accrued charges for towing, ***recovery***[~~transporting~~], and storage, the sale and collection of proceeds shall not constitute a waiver or release of responsibility for payment of unpaid towing, ***recovery***[~~transporting~~], and storage charges by the owner or responsible casualty insurer of the vehicle. This lien shall be subject to prior recorded liens.

(4) The provisions of this section shall not apply when a local government causes a vehicle to be towed pursuant to KRS 82.605 to 82.640 or if state government causes a vehicle to be towed.

Section 5. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents ($0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars ($100) and shall not be more than five hundred dollars ($500).

(b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars ($100); otherwise, the penalties in paragraph (a) of this subsection shall apply.

(c) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than

fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle ***on or beside***~~[upon the right of way of]~~ a state highway***, county road, or city street*** for three (3) consecutive days shall***:***

(a) For a first offense be fined five hundred dollars ($500); and

(b) For a second or subsequent offense be fined one thousand dollars ($1,000) and may be~~[fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or]~~ imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(27) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

Section 6. The following KRS sections are repealed:

189.751 Abandonment of vehicle on county road or city street -- Penalty -- Removal -- Disposition.
189.753 Abandonment of motor vehicle on state highway -- Presumption -- Notification -- Removal.

HJR 7, A JOINT RESOLUTION naming the Daniel Boone-Hal Rogers Parkway.

WHEREAS, Daniel Boone was responsible, perhaps more than any other individual, for the exploration and settlement of the State of Kentucky; and

WHEREAS, Daniel Boone's first encounter with the territory now known as Kentucky was in 1767 when he camped for the winter at Salt Spring near Prestonsburg; and

WHEREAS, on May 1, 1769, Boone and five other men traveled over the Cumberland Gap and established a camp at Station Camp Creek; and

WHEREAS, for approximately two years, Boone and his companions explored Kentucky as far west as the Falls of the Ohio near Louisville; and

WHEREAS, during his exploration Daniel Boone spent the winter of 1769-1770 in a cave on the waters of Shawanee in Mercer County and he carved his name in a tree near the cave that continues to stand today as a testament to Boone's visit; and

WHEREAS, in 1773 Daniel Boone again trekked through Kentucky and in 1774 he built a cabin in Harrodsburg; and

WHEREAS, it was on his trip to Kentucky in 1774 that Daniel Boone followed the Kentucky River to its mouth; and

WHEREAS, in 1775 Colonel Richard Henderson of the Translyvania Company hired Daniel Boone to serve as his agent, and on March 1 Boone once again came to the area he called the "Great Meadow" and with thirty settlers began to clear the path that would open Kentucky to the colonists -- a path Boone would name the "Wilderness Road"; and

WHEREAS, by April 1775 Daniel Boone and his party were establishing a stockade and fort at Boonesboro which led to a settlement that repealed repeated attacks during the American Revolution and eventually became a permanent village; and

WHEREAS, even though Daniel Boone and his beloved wife Rebecca were buried in Missouri, they were brought home to Kentucky twenty-five years after Boone's death to be reinterred in the Frankfort Cemetery; and

WHEREAS, Daniel and Rebecca Boone found their final peace resting on a bluff over looking the Kentucky River and the City of Frankfort, a bluff that is like the ones Boone climbed countless times and called a "high, far-seeing place", where he could see the land beyond; and

WHEREAS, the importance of Daniel Boone to the history, culture, and traditions of Kentucky cannot be emphasized enough, not only to past generations, but to present and future generations as well; and

WHEREAS, a national forest that encompasses a large portion of Kentucky is named in honor of Daniel Boone; and

WHEREAS, the legend of Daniel Boone has inspired national bestsellers, a hit television series, and several full-length movies; and

WHEREAS, the thirst of visitors from across the nation and the world to experience Daniel Boone's life and adventures fuels the tourism industry across the length and breadth of the Commonwealth; and

WHEREAS, in 1974 the state opened a vital transportation link for the southeastern part of the state and named the route the Daniel Boone Parkway, a sixty mile corridor that traverses remote, mountainous forest, not unlike the terrain Boone explored so long ago; and

WHEREAS, the Daniel Boone Parkway was one of four remaining parkways that levied tolls until early 2003 when U.S. Congressman Hal Rogers announced that he had obtained $13 million in federal funding to remove the tolls from both the Daniel Boone and Louie B. Nunn (Cumberland) Parkways; and

WHEREAS, there is complete consensus that removal of the tolls from the Daniel Boone and Louie B. Nunn (Cumberland) Parkways will serve as an unprecedented economic stimulus for the southern and eastern regions of the state; and

WHEREAS, even though other parkways in the state have been named to honor state and federal elected officials in addition to former Governor Louie B. Nunn, specifically the Julian Carroll (Purchase) Parkway, as well as former Governor and United States Senator Wendell Ford (Western Kentucky) Parkway, a controversial decision has been made administratively to totally rename the Daniel Boone Parkway the Harold Rogers Parkway, in honor of not only Congressman Roger's procurement of federal funds to remove tolls on the parkway, but for his dedicated service for over two decades of championing the causes of the region's citizens in Washington; and

WHEREAS, an incomparable statesman, Congressman Hal Rogers has been an invaluable asset to Kentucky and deserves to be honored and remembered for his life as a public servant; and

WHEREAS, while not wishing to impugn Congressman Rogers and his stellar career and service to Kentucky, citizens across the state have expressed outrage at removing all references to Daniel Boone on highway signs and maps; and

WHEREAS, a compromise would be for highway signs and maps to include both the name Daniel Boone Parkway and Hal Rogers Parkway, identical to how signage is handled for the Western Kentucky Parkway and Wendell Ford Parkway;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall rename the Hal Rogers Parkway to the "Daniel Boone-Hal Rogers Parkway".

Section 2. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, ensure highway signs are erected that read "Daniel Boone-Hal Rogers Parkway" and shall reprint all highway maps to reflect the appropriate name change.

HJR 9, A JOINT RESOLUTION naming the Breathitt County Veterans Highway.

WHEREAS, world events transpiring since September 11, 2001, have once again demonstrated how much this great nation depends upon our Armed Forces; and

WHEREAS, countless soldiers, sailors, airmen, and Marines have given their lives in defense of the Constitution, protecting and preserving the freedoms upon which the United States was founded; and

WHEREAS, on native soil and on foreign battlefields, row upon row of headstones stand in silent tribute and as silent testimony to the courage and sacrifice of America's sons and daughters; and

WHEREAS, all veterans deserve our gratitude and recognition for their courage, devotion, sacrifice, and service to the Commonwealth of Kentucky and the entire nation;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name the entire segment of Kentucky Route 15 in Breathitt County the "Breathitt County Veterans Highway."

Section 2. The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs that read "Breathitt County Veterans Highway" on Kentucky Route 15 at the Breathitt/Wolfe County line and the Breathitt/Perry County line, and at appropriate intervals in-between.

HJR 11, A JOINT RESOLUTION naming the "Sheriff Bobby Thomas Memorial Highway" in Hardin County.

We pause to honor and remember Robert E. "Bobby" Thomas. He has been taken from our presence but not from our hearts.

WHEREAS, Robert E. "Bobby" Thomas, a native of Hardin County and the son of Lawrence and Mary Agnes Thomas, slipped from these earthly bounds on January 30, 2001; and

WHEREAS, Bobby Thomas took an oath to protect, to defend, and to serve when he became a law enforcement officer, an oath that he took seriously and lived by until his untimely death; and

WHEREAS, Bobby Thomas served six years as a Deputy Sheriff before being appointed Sheriff of Hardin County in February 1994, the post to which he was also elected to serve for two additional terms; and

WHEREAS, a consummate professional, Bobby Thomas was the immediate past president of the Kentucky Sheriff's Association and was a member of the National Sheriff's Association; and

WHEREAS, in recognition of his dedicated service, Bobby Thomas had been the proud recipient of a prestigious award from the United States Marshal Service; and

WHEREAS, Sheriff Bobby Thomas was responsible for organizing the Hardin County Chapter of TRIAD, which was the first chapter organized in Kentucky and which is a cooperative effort between law enforcement agencies and senior citizens to keep seniors actively involved in their community and to reduce criminal victimization of older persons; and

WHEREAS, Bobby Thomas was an active member of the Hardin County community as a member of the St. John Catholic Church and the Hardin County Farm Bureau, as well as the Elizabethtown and Radcliff Chambers of Commerce; and

WHEREAS, Bobby Thomas was past president of the Cecilia Ruritan Club, past chairman of the Hardin County Extension Foundation, former chairman of the Hardin County Cooperative Extension Service Center, and a member of the Kentucky Association of Counties; and

WHEREAS, Bobby Thomas was a farmer, devoted husband to his beloved wife Martha, loving father to sons Nicky, Larry, and Greg, and daughters Lisa, Tracie, and Pam, and doting grandfather to 12 grandchildren; and

WHEREAS, Bobby Thomas was a special human being whose selfless contributions to his immediate family, extended family, friends, colleagues, community, and state will continue to live, prosper, and grow for many generations to come;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly proclaims Robert E. "Bobby" Thomas to have been an outstanding citizen and exemplary representative of the Commonwealth.

Section 2. The Transportation Cabinet shall name Kentucky Route 1357 in Hardin County, also known as St. John's Road, from its junction with Kentucky Route 3005 to its junction with Kentucky Route 1375, the "Sheriff Bobby Thomas Memorial Highway."

Section 3. The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs on the segment of Kentucky Route 1357 identified in Section 2 that read "Sheriff Bobby Thomas Memorial Highway."

The Committee Substitute to **HJR 11** is as follows:

HJR 11, A JOINT RESOLUTION naming the "Sheriff Bobby Thomas Memorial Highway" in Hardin County.

We pause to honor and remember Robert E. "Bobby" Thomas. He has been taken from our presence but not from our hearts.

WHEREAS, Robert E. "Bobby" Thomas, a native of Hardin County and the son of Lawrence and Mary Agnes Thomas, slipped from these earthly bounds on January 30, 2001; and

WHEREAS, Bobby Thomas took an oath to protect, to defend, and to serve when he became a law enforcement officer, an oath that he took seriously and lived by until his untimely death; and

WHEREAS, Bobby Thomas served six years as a Deputy Sheriff before being appointed Sheriff of Hardin County in February 1994, the post to which he was also elected to serve for two additional terms; and

WHEREAS, a consummate professional, Bobby Thomas was the immediate past president of the Kentucky Sheriff's Association and was a member of the National Sheriff's Association; and

WHEREAS, in recognition of his dedicated service, Bobby Thomas had been the proud recipient of a prestigious award from the United States Marshal Service; and

WHEREAS, Sheriff Bobby Thomas was responsible for organizing the Hardin County Chapter of TRIAD, which was the first chapter organized in Kentucky and which is a cooperative effort between law enforcement agencies and senior citizens to keep seniors actively involved in their community and to reduce criminal victimization of older persons; and

WHEREAS, Bobby Thomas was an active member of the Hardin County community as a member of the St. John Catholic Church and the Hardin County Farm Bureau, as well as the Elizabethtown and Radcliff Chambers of Commerce; and

WHEREAS, Bobby Thomas was past president of the Cecilia Ruritan Club, past chairman of the Hardin County Extension Foundation, former chairman of the Hardin County Cooperative Extension District Board, and a member of the Kentucky Association of Counties; and

WHEREAS, Bobby Thomas was a farmer, devoted husband to his beloved wife Martha, loving father to sons Nicky, Larry, and Greg, and daughters Lisa, Tracie, and Pam, and doting grandfather to 13 grandchildren; and

WHEREAS, Bobby Thomas was a special human being whose selfless contributions to his immediate family, extended family, friends, colleagues, community, and state will continue to live, prosper, and grow for many generations to come;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly proclaims Robert E. "Bobby" Thomas to have been an outstanding citizen and exemplary representative of the Commonwealth.

Section 2. The Transportation Cabinet shall name Kentucky Route 1357 in Hardin County, also known as St. John's Road, from its junction with Kentucky Route 3005 to its junction with Kentucky Route 1375, the "Sheriff Bobby Thomas Memorial Highway."

Section 3. The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs on the segment of Kentucky Route 1357 identified in Section 2 that read "Sheriff Bobby Thomas Memorial Highway."

HJR 19, A JOINT RESOLUTION memorializing PFC David Paul Nash of Daviess County, recipient of the Medal of Honor, and declaring an emergency.

"Greater love hath no man than this, that a man lay down his life for his friends."

John 15:13

WHEREAS, David Paul Nash was born in Whitesville, Kentucky, on November 3, 1948, the son of Ishmael Worth Nash and Mary Stella Nash; and

WHEREAS, David Paul Nash, known as "Paulie" to his friends, was a typical country boy who loved to fish and hunt, was not afraid of hard work, and raised a tobacco crop with his older brother; and

WHEREAS, David Paul Nash was a member of St. Mary's of the Woods Catholic Church, where he was an altar boy and where his mother and many of members of his family are still members today; and

WHEREAS, David Paul Nash, after schooling at St. Mary's High School, was drafted into the United States Army and became a grenadier with the Ninth Infantry Division; and

WHEREAS, David Paul Nash had no second thoughts about serving his country in Vietnam; he expressed to friends and family that it was the right thing to do; and

WHEREAS, David Paul Nash, while on an ambush patrol on December 29, 1968, made the ultimate sacrifice when an enemy grenade landed a few feet from his position and he without hesitation shouted a warning to his comrades and leaped on the lethal explosive, saving the lives of three other men at the cost of his own; and

WHEREAS, a soldier who served with David Paul Nash paid him the ultimate compliment when he said of his friend, "He was always quiet but he made you feel good about yourself. He was the kind of guy you wanted next to you when you went on patrol. You trusted him. You knew he would do the right thing and cover you. When I heard what happened, I wasn't surprised. He was that kind of guy."; and

WHEREAS, David Paul Nash, because of his gallantry that came at the sacrifice of his life, was awarded the Congressional Medal of Honor; and

WHEREAS, David Paul Nash has been fondly remembered and sorely missed over these past 35 years by his parents, his six brothers, Leon, Randy, Earl, Wilson, Allen, and Kenny Nash, his sister Sue Nash Fisher, his extended family, and the entire Whitesville community; and

WHEREAS, David Paul Nash is owed a debt for his service and sacrifice that the Commonwealth can never repay, but can recognize through a tangible symbol, however inadequate it might be,

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name Kentucky Route 54 from the intersection with Haynes Station Road in Daviess County (mile point 13.36) to the Ohio County line the "PFC David Paulie Nash Memorial Highway."

Section 2. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs that read "PFC David Paulie Nash Memorial Highway" at each end of the route identified in Section 1 of this Resolution, and at appropriate intervals along the route.

Section 3. The Transportation Cabinet shall include on the signs described in Section 2 of this Resolution, an indication that PFC Nash was a recipient of the Medal of Honor.

Section 4. The Clerk of the House of Representatives is directed to forward a copy of this Resolution upon its enactment to Stella Nash, 9156 Kentucky Route 54, Whitesville, Kentucky 42378.

Section 5. Whereas over 35 years have passed since Private Nash's passing, and delaying this small honor any longer than absolutely necessary would be inexcusable, an emergency is declared to exist and this Resolution shall take effect upon it passage and approval by the Governor or its otherwise becoming a law.

HJR 40, A JOINT RESOLUTION memorializing Euris Chaney of Calloway County.

WHEREAS, Euris Chaney, a native of Hickman County, moved to Calloway County in 1918, after marrying the former Lela Skinner; and

WHEREAS, Euris Chaney, a farmer by trade, was active in the civic life of Calloway County and Murray and served on the local school board; and

WHEREAS, Euris Chaney's interest in education extended to his family, and three of his four children and 11 of his 13 grandchildren all graduated from Murray State University; and

WHEREAS, Euris Chaney's home was purchased by the state for construction of a new connector highway between Aurora and Murray; and

WHEREAS, Euris Chaney is fondly remembered by his children and grandchildren, and his many friends in his adopted hometown;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name the new Kentucky Route 80, currently under construction between Kentucky Route 402 and Kentucky Route 94, the "Euris Chaney Connector."

Section 2. The Transportation Cabinet shall, upon completion of construction, erect signs designating the "Euris Chaney Connector" at each end of the route specified in Section 1 of this Resolution.

HJR 42, A JOINT RESOLUTION naming the "Kentucky Veterans Highway" in Bell County.

WHEREAS, it is the men and women of the Armed Forces who, since the inception of this great nation, have won and defended the freedoms that we now enjoy; and

WHEREAS, in protecting and defending their country, America's soldiers, sailors, airmen, and Marines have given the best years of their lives to a cause that yields little financial reward and scant glory; and

WHEREAS, the places that our servicemen have gone to secure and defend our liberties spans the globe from Bunker Hill and the Alamo here in America, to such far-flung locales as Bastogne, Normandy, Iwo Jima, Inchon, Saigon, and Kuwait City; and

WHEREAS, the men and women of our Armed Forces are now engaged in a struggle against a 21st Century enemy, one far more nebulous, and in many ways more dangerous, that the tyrants and despots of a bygone era; and

WHEREAS, it is appropriate that we paused to reflect upon and honor the service, dedication, and sacrifice of millions of Americans who have served their country since its inception;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name United States Route 119 from the Joan Asher Cawood Bridge to the Harlan County line the "Kentucky Veterans Highway."

Section 2. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs that read "Kentucky Veterans Highway" at each end of the route identified in Section 1 of this Resolution, and at appropriate intervals along the route.

HJR 43, A JOINT RESOLUTION mandating the Transportation Cabinet to take various actions regarding temporary tourism signs including agritourism signs.

WHEREAS, farmers are the backbone of our society, not only in Kentucky but nationally as well; and

WHEREAS, if not for the countless hours our farmers toil to provide food and livestock the entire world would go hungry; and

WHEREAS, an unfortunate result of America's "fast-paced society" is that more and more people traveling our highways are unaware of the jewels of local interest they are bypassing due to limited highway signage; and

WHEREAS, Kentucky's farmers desperately need assistance in promoting their goods and services to the general public;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall continue to work with the Tourism Cabinet and the agritourism industry to develop a signage program for temporary events that will comply with federal mandates, the federal Manual on Uniform Traffic Control Devices, and the federal Highway Beautification Act.

Section 2. The Transportation Cabinet shall make an effort to find or develop a signage program that allows low cost signage materials that may be easily erected and removed or covered for temporary tourism events, including agritourism.

Section 3. The Transportation Cabinet shall experiment to find methods for erecting panel boards or stand alone signs that meet the needs of temporary tourism events while maintaining standards the cabinet has been charged with administering through state and federal laws.

Section 4. The Transportation Cabinet shall report its findings to the Legislative Research Commission not later than September 1, 2004.

HJR 46, A JOINT RESOLUTION naming the Veterans Memorial Highway in Lyon County.

WHEREAS, the attacks of September 11, 2001, and continued attacks upon our personnel stationed overseas have shown once again how much this great country depends on her Armed Forces; and

WHEREAS, it is the Armed Forces that defend this nation from foreign powers that act against our national interests and seek to tarnish the principles of freedom and justice; and

WHEREAS, countless soldiers, sailors, airmen, and Marines have given their lives in defense of the Constitution that makes our country the model for the free world; and

WHEREAS, at home and on foreign battlefields, row upon row of headstones stand as silent testimony to the courage and sacrifice of America's sons and daughters; and

WHEREAS, many patriotic men and women of Lyon County have answered their nation's call to service in times of great need; and

WHEREAS, our veterans deserve our gratitude and recognition for their devotion, sacrifice, and service to our Commonwealth and our nation;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this body, both individually and collectively, proclaim all Kentuckians who are currently serving in the Armed Forces, as well as those who have been honorably discharged or who may be deceased, to be outstanding citizens and exemplary representatives of the Commonwealth of Kentucky.

Section 2. The Transportation Cabinet shall name the entire length of United States Route 62 in Lyon County the "Veterans Memorial Highway."

Section 3. The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs on United States Route 62 at the Lyon County/Livingston County line, the Lyon County/Caldwell County line, and at other appropriate intervals on the route that read "Veterans Memorial Highway."

HJR 54, A JOINT RESOLUTION naming the "Dr. Loman C. Trover Highway" in Hopkins County.

WHEREAS, Loman Trover is a native of Earlington in Hopkins County, the son of Ruth and Barton Trover and the brother of Faull Trover and Katherine Davis; and

WHEREAS, at a young age Loman Trover decided to pursue a medical career; and

WHEREAS, after applying to the University of Louisville School of Medicine, Loman Trover was the recipient of one of the first Rural Health Scholarships awarded by the Kentucky Medical Association; and

WHEREAS, Dr. Loman Trover graduated from the University of Louisville School of Medicine in 1947; and

WHEREAS, Dr. Loman Trover met his lovely wife Helen Elizabeth, a nurse, while in medical school in Louisville and they were married on February 1, 1948; and

WHEREAS, Dr. and Mrs. Loman Trover returned to Earlington to start a general medical practice as well as a family; and

WHEREAS, Dr. and Mrs. Loman Trover proudly raised their six children, Stephanie, Kathy, Phillip, Michael, Regina, and Lorrie in Earlington; and

WHEREAS, Dr. Loman Trover has been quoted as saying "Those first years out of medical school, I became very disturbed at the scope of medicine available here in Hopkins County. Family physicians were really just operating in a triage capacity. We did not have the means to diagnose and treat even the simplest problems. I felt we had to take more responsibility for our patients' care, and the consequences of our decisions. We (Loman and his brother Faull) concluded that we had to do one of two things. We were going to change what was here or leave the area and pursue our own specialty interests. We decided to attempt to change things by starting a group practice."; and

WHEREAS, in 1952 Dr. Loman Trover and his brother Faull began their search for a diverse group of doctors who would share their vision to improve health care in Hopkins County; and

WHEREAS, in 1953 the first Trover Clinic Group Practice opened and by 1958 had sixteen physicians, making it the largest group practice at the time in the state, and was composed of medical, surgical, pediatric, and ob/gyn clinical divisions, as well as having radiology, pathology, and anesthesiology support services; and

WHEREAS, the substantial growth of the Trover Clinic resulted in rapid expansion of the local hospital in which Dr. Loman Trover was instrumental in the successful additions and in 1977, led to the creation of the Regional Medical Center of Hopkins County; and

WHEREAS, Dr. Loman Trover was a member of the Hopkins County Health Department for many years and helped coordinate public and private medical services to eliminate duplication and increase services available to the community; and

WHEREAS, as the Trover Clinic's role in community health care grew, Dr. Loman Trover saw the importance of providing medical educational programs to local and regional students. Among many others, these include: 1. The Field Professorship Program, an experimental program that trains medical students in the concepts of community medicine and served as a model for six other programs around Kentucky; 2. The Allied Health Occupations School, which trains licensed practical nurses, respiratory therapists, lab assistants, radiology and operating room technicians, ward clerks, and medical secretaries; 3. The Family Practice Residency Program, which trains physicians for three years after medical school preparing them to practice in rural settings; and 4. The Surgery Project, which trains third year medical students in surgery instruction; and

WHEREAS, in 1995 Dr. Loman Trover's long-time dream became a reality when he was able to move the Sports Medicine and Rehabilitation Center from the former Hopkins County Hospital building into a new state-of-the-art facility; and

WHEREAS, in 2002, the Trover Foundation opened the Center for Heart and Vascular Services and the Center for Women's Health next to the regional hospital; and

WHEREAS, in addition to the original Trover Clinic in Earlington, there are now Trover Clinic branch offices in Providence, Morganfield, Dawson Springs, Hopkinsville, Princeton, Eddyville, Calhoun, and Clay; and

WHEREAS, Dr. Loman's commitment to improving his community helped bring several industries to Hopkins County including Goodyear, General Electric, and Mid-America Canning; and

WHEREAS, throughout his distinguished career, Dr. Loman Trover received the following awards and honors: the

Kentucky Hospital Association's Award of Excellence; Distinguished Alumnus Award, University of Louisville Medical Alumni Association; Ad Astra Award, University of Louisville School of Medicine; Kentucky Medical Association Educational Achievement Award; Russell V. Lee Lecture and Award, American Group Practice Association; Award for outstanding contributions to medicine in the state of Kentucky, Kentucky Academy of Family Physicians; Distinguished Service Award, Greater Madisonville Area Chamber of Commerce; Alumni Fellows Award, University of Louisville; Honorary Doctor of Science, University of Kentucky; Commonwealth of Kentucky Council on Higher Education Recognition of Service Award; Distinguished Alumni Citation in Science Award, Transylvania University; Honorary Doctor of Humane Letters, Honoris Causa, Transylvania University; Wade Mount Visionary Award, Kentucky Healthcare Strategy Forum; and the library at the Madisonville Community College was named The Loman C. Trover Library; and

WHEREAS, also among Dr. Loman Trover's many achievements were membership in the Alpha Omega Alpha Medical Society, past President of the American Group Practice Association, past member of the Board of Directors of the Regional Medical Center of Hopkins County, past member of the Kentucky Council on Higher Education, past Chairman of the Health Services Advisory Committee of the Kentucky Cancer Commission, past member of the J. Graham Brown Regional Cancer Center, past member of the Medical Advisory Committee of the Kentucky Cancer Commission, charter member of the American Academy of Medical Directors, past President of the Madisonville-Hopkins County Chamber of Commerce, past Chairman of the First Federal Savings and Loan Company, past Board Member for the Peoples Bank and Trust Company, past Advisory Board Member of the Citizens Bank of Kentucky, past member of the Governor's Task Force on Health Care Access and Affordability, Chairman Emeritus of the Trover Foundation, Chairman of Regional Health Care Affiliates, CEO Emeritus of the Trover Clinic, Board Member of the Hopkins County Development Corporation, and Board Member of the Madisonville-Hopkins County Economic Development Corporation; and

WHEREAS, Dr. Loman Trover's legacy will be that he wanted to bring medicine to the people, rather than take the people to the medicine;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of the General Assembly proclaim Dr. Loman C. Trover to be an outstanding citizen and exemplary representative of the Commonwealth.

Section 2. The Transportation Cabinet shall name Kentucky Route 112 the "Dr. Loman C. Trover Highway" beginning at the intersection of Main Street and Railroad Street in Earlington, Kentucky and continuing to the junction of Kentucky Route 112 and United States Route 62.

Section 3. The Transportation Cabinet shall, within thirty (30) days of the effective date of this Resolution, erect signs that read the "Dr. Loman C. Trover Highway" on Kentucky Route 112 beginning at the intersection of Main Street and Railroad Street in Earlington, Kentucky and continuing to the junction of Kentucky Route 112 and United States Route 62.

HJR 82, A JOINT RESOLUTION naming the "Battlefield Memorial Highway" in Madison County.

WHEREAS, on August 29 and 30, 1862, the Union and Confederate forces waged the Battle of Richmond, one of the most significant battles of the Kentucky Campaign; and

WHEREAS, the Battle of Richmond involved engagements at Big Hill, Berea, and Richmond where the Confederate forces, under the direction of Major General Edmund Kirby-Smith, routed the Union forces and lost only about 100 men, while the Union Army lost over 4,500 who were killed or wounded; and

WHEREAS, the Confederate victory, one of the most complete of the war, would be rendered for naught just weeks later at the Battle of Perryville, which led to the abandonment of the Kentucky Campaign; and

WHEREAS, the site of the Battle of Richmond is of great historical and social significance and should be recognized as such;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name United States Route 421 in Madison County from United States Route 25 to Kentucky Route 1016 the "Battlefield Memorial Highway."

Section 2. The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs at each end of the road identified in Section 1 of this Resolution that read "Battlefield Memorial Highway."

HJR 91, A JOINT RESOLUTION renaming the Paris By-Pass in Bourbon County.

WHEREAS, the term "Thoroughbred" describes a breed of horse whose ancestry traces back to three foundation sires -- the Darley Arabian, the Godolphin Arabian, and the Byerly Turk; and

WHEREAS, known for their beauty and grace, Thoroughbreds are also renowned around the world as a breed that can carry weight with sustained speed over extended distances; and

WHEREAS, Thoroughbreds are recognized for their superior breeding and over three hundred years have proven their excellence at the race track; and

WHEREAS, as racing was rapidly expanding across North America, Colonel Sanders D. Bruce, a Kentuckian who had spent almost a lifetime researching the pedigrees of American Thoroughbreds, published the first volume of *The American StudBook* in 1873; and

WHEREAS, some of the Thoroughbred champions of the twentieth century include Colin, Exterminator, Man o' War, Count Fleet, Citation, Native Dancer, Kelso, Secretariat, Forego, Seattle Slew, Affirmed, and Cigar; and

WHEREAS, Cigar currently is a resident of the Kentucky Horse Park's Hall of Champions; and

WHEREAS, the Kentucky Horse Park houses the National Horse Center, which is a collection of top equine management associations and organizations that believe Kentucky is the ideal setting for their national and state offices; and

WHEREAS, because of Kentucky's rich and proud tradition of breeding and raising some of the finest Thoroughbreds that have ever raced in the sport, the Kentucky Horse Park was the only site in the United States during the summer of 2000 that was selected to house the exhibit *Imperial China: The Art of the Horse in Chinese History* -- an exhibit that contained over 350 artifacts valued at more than $100 million dollars and which drew over 200,000 visitors; and

WHEREAS, the Thoroughbred industry is a cornerstone of Kentucky's economy, as well as of the Commonwealth's history;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to rename the Paris By-Pass in Bourbon County the "Thoroughbred Run."

Section 2. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs on the Paris By-Pass that read "Thoroughbred Run."

The Committee on Agriculture and Small Business reported **HB 404**, with Committee Substitute attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 404, AN ACT relating to agricultural uses of land.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.111 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative official" means any department, employee, or advisory, elected, or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations, and, if delegated, any provision of any housing or building regulation or any other land use control regulation;

(2) "Agricultural use" means the use of a tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers, or ornamental plants, including provision for dwellings for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building development for sale or lease to the public, and shall also include, regardless of the size of the tract of land used, small wineries licensed under KRS 243.155, and farm wineries licensed under the provisions of KRS 243.156***, and shall further include use of the land for the following activities involving horses, regardless of the size of the tract of land used:***

(a) Riding lessons;

(b) Rides;

(c) Training;

(d) Boarding and related care; and

(e) Shows, competitions, sporting events, and similar activities that are not authorized under KRS Chapter 230;

(3) "Board" means the board of adjustment unless the context indicates otherwise;

(4) "Citizen member" means any member of the planning commission or board of adjustment who is not an elected or appointed official or employee of the city, county, or consolidated local government;

(5) "Commission" means planning commission;

(6) "Conditional use" means a use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation;

(7) "Conditional use permit" means legal authorization to undertake a conditional use, issued by the administrative official

pursuant to authorization by the board of adjustment, consisting of two (2) parts:

(a) A statement of the factual determination by the board of adjustment which justifies the issuance of the permit; and

(b) A statement of the specific conditions which must be met in order for the use to be permitted;

(8) "Development plan" means written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, access points, a plan for screening or buffering, utilities, existing manmade and natural conditions, and all other conditions agreed to by the applicant;

(9) "Fiscal court" means the chief body of the county with legislative power, whether it is the fiscal court, county commissioners, or otherwise;

(10) "Housing or building regulation" means the Kentucky Building Code, the Kentucky Plumbing Code, and any other building or structural code promulgated by the Commonwealth or by its political subdivisions;

(11) "Legislative body" means the chief body of the city or consolidated local government with legislative power, whether it is the board of aldermen, the general council, the common council, the city council, the board of commissioners, or otherwise; at times it also implies the county's fiscal court;

(12) "Mayor" means the chief elected official of the city or consolidated local government whether the official designation of his office is mayor or otherwise;

(13) "Nonconforming use or structure" means an activity or a building, sign, structure, or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located;

(14) "Planning operations" means the formulating of plans for the physical development and social and economic well-being of a planning unit, and the formulating of proposals for means of implementing the plans;

(15) "Planning unit" means any city, county, or consolidated local government, or any combination of cities, counties, or parts of counties, or parts of consolidated local governments engaged in planning operations;

(16) "Plat" means the map of a subdivision;

(17) "Political subdivision" means any city, county, or consolidated local government;

(18) "Several" means two (2) or more;

(19) "Public facility" means any use of land whether publicly or privately owned for transportation, utilities, or communications, or for the benefit of the general public, including but not limited to libraries, streets, schools, fire or police stations, county buildings, municipal buildings, recreational centers including parks, and cemeteries;

(20) "Street" means any vehicular way;

(21) "Structure" means anything constructed or made, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings and signs;

(22) "Subdivision" means the division of a parcel of land into three (3) or more lots or parcels except in a county containing a city of the first, second, or third class or in an urban-county government or consolidated local government where a subdivision means the division of a parcel of land into two (2) or more lots or parcels; for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; provided that a division of land for agricultural use and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or redivision of land into parcels of less than one (1) acre occurring within twelve (12) months following a division of the same land shall be deemed a subdivision within the meaning of this section;

(23) "Unit" means planning unit; and

(24) "Variance" means a departure from dimensional terms of the zoning regulation pertaining to the height, width, length, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247.

The Committee Substitute to **HB 404** is as follows:

HB 404, `AN ACT relating to agricultural uses of land.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 100.111 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative official" means any department, employee, or advisory, elected, or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations, and, if delegated, any provision of any housing or building regulation or any other land use control regulation;

(2) "Agricultural use" means the use of a tract of at least five (5) contiguous acres for the production of agricultural or

horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers, or ornamental plants, including provision for dwellings for persons and their families who are engaged in the[~~ above~~] agricultural use on the tract, but not including residential building development for sale or lease to the public, and shall also include, regardless of the size of the tract of land used, small wineries licensed under KRS 243.155, and farm wineries licensed under the provisions of KRS 243.156***,*** ***and shall further include use of the land for the following activities involving horses, regardless of the size of the tract of land used:***

(a) Riding lessons;

(b) Rides;

(c) Training;

(d) Projects for educational purposes;

(e) Boarding and related care; and

(f) Shows, competitions, sporting events, and similar activities that are not authorized under KRS Chapter 230;

(3) "Board" means the board of adjustment unless the context indicates otherwise;

(4) "Citizen member" means any member of the planning commission or board of adjustment who is not an elected or appointed official or employee of the city, county, or consolidated local government;

(5) "Commission" means planning commission;

(6) "Conditional use" means a use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation;

(7) "Conditional use permit" means legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustment, consisting of two (2) parts:

(a) A statement of the factual determination by the board of adjustment which justifies the issuance of the permit; and

(b) A statement of the specific conditions which must be met in order for the use to be permitted;

(8) "Development plan" means written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, access points, a plan for screening or buffering, utilities, existing manmade and natural conditions, and all other conditions agreed to by the applicant;

(9) "Fiscal court" means the chief body of the county with legislative power, whether it is the fiscal court, county commissioners, or otherwise;

(10) "Housing or building regulation" means the Kentucky Building Code, the Kentucky Plumbing Code, and any other building or structural code promulgated by the Commonwealth or by its political subdivisions;

(11) "Legislative body" means the chief body of the city or consolidated local government with legislative power, whether it is the board of aldermen, the general council, the common council, the city council, the board of commissioners, or otherwise; at times it also implies the county's fiscal court;

(12) "Mayor" means the chief elected official of the city or consolidated local government whether the official designation of his office is mayor or otherwise;

(13) "Nonconforming use or structure" means an activity or a building, sign, structure, or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located;

(14) "Planning operations" means the formulating of plans for the physical development and social and economic well-being of a planning unit, and the formulating of proposals for means of implementing the plans;

(15) "Planning unit" means any city, county, or consolidated local government, or any combination of cities, counties, or parts of counties, or parts of consolidated local governments engaged in planning operations;

(16) "Plat" means the map of a subdivision;

(17) "Political subdivision" means any city, county, or consolidated local government;

(18) "Several" means two (2) or more;

(19) "Public facility" means any use of land whether publicly or privately owned for transportation, utilities, or communications, or for the benefit of the general public, including but not limited to libraries, streets, schools, fire or police stations, county buildings, municipal buildings, recreational centers including parks, and cemeteries;

(20) "Street" means any vehicular way;

(21) "Structure" means anything constructed or made, the use of which requires permanent location in or on the ground or attachment to something having a permanent location in or on the ground, including buildings and signs;

(22) "Subdivision" means the division of a parcel of land into three (3) or more lots or parcels except in a county containing a city of the first, second, or third class or in an urban-county government or consolidated local government where a subdivision means the division of a parcel of land into two (2) or more lots or parcels; for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; provided that a division of land for agricultural use and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or redivision of land into parcels of less than one (1) acre occurring within twelve (12) months following a division of the same land shall be deemed a subdivision within the meaning of this section;

(23) "Unit" means planning unit; and

(24) "Variance" means a departure from dimensional terms of the zoning regulation pertaining to the height, width, length, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247.

Calendar

HB 432, 36, 183, 309, 398, HCR 67, HB 372, 91, 303, 359, and **389** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules Meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Rules Committee report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 91, 303, 359, 398, 432, HCR 67, HB 162, 163,** and **289** have been posted for passage in the Regular Orders of the Day for February 6, 2004.

Orders of the Day

HB 76, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stein moved the adoption of the Committee Substitute to **HB 76**. Agreed.

Representative Stein moved that **HB 76**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 86, Nays 5**. (See February 5, 2004, roll call on **HB 76** - Appendix.)

HB 76, by way of Committee Substitute, was passed and the title agreed to.

Representative Stein moved that the vote by which **HB 76**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 11, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nelson moved the adoption of the Committee Substitute to **HB 11**. Agreed.

Representative Nelson moved that **HB 11**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 5, 2004, roll call on **HB 11** - Appendix.)

HB 11, by way of Committee Substitute, was passed and the title agreed to.

Representative Nelson moved that the vote by which **HB 11**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 203 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Adams moved that **HB 203** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 5, 2004, roll call on **HB 203** - Appendix.)

HB 203 was passed and the title agreed to.

Representative R. Adams moved that the vote by which **HB 203** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 305, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of the Committee Substitute to **HB 305**. Agreed.

Representative Thomas moved that **HB 305**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See February 5, 2004, roll call on **HB 305** - Appendix.)

HB 305, by way of Committee Substitute was passed.

Representative Thomas moved the adoption of Committee Amendment No. 1 Title to **HB 305**. Agreed.

Representative Thomas moved that the vote by which **HB 305**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 274, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved the adoption of the Committee Substitute to **HB 274**. Agreed.

Representative Weaver moved that **HB 274**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 69, Nays 17**. (See February 5, 2004, roll call on **HB 274** - Appendix.)

HB 274, by way of Committee Substitute, was passed and the title agreed to.

Representative Weaver moved that the vote by which **HB 274**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 157, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Buckingham moved the adoption of the Committee Substitute to **HB 157**. Agreed.

Representative Buckingham moved that **HB 157**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 86, Nays 4**. (See February 5, 2004, roll call on **HB 157** - Appendix.)

HB 157, by way of Committee Substitute, was passed.

Representative Buckingham moved the adoption of Committee Amendment No. 1 Title to **HB 157**. Agreed.

Representative Buckingham moved that the vote by which **HB 157**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Baugh moved the adoption of the following **Legislative Citation No. 22**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory and honor of Norma Jean Walton Blick of Olmstead, Kentucky, and joins with Representative Sheldon Baugh in expressing deepest sympathy to the Walton and Blick Families and all who share in the profound loss on the passing of this esteemed citizen. Preceded in death by her beloved daughter, Debbie Blick McIntosh, she is survived by her mother, Viola Walton; cherished husband, Clyde Blick; son, Steve Blick; brother, L. E. Walton; nephew, Neal Walton; grandchildren, Kelly Bibb, Kelsey Blick, and Wesley Blick; great-grandchild, Taylor Bibb; and, a host of other family members, friends and loved ones. This esteemed citizen, a floral designer for Hickory Hill Florist and a faithful member of the Dripping Spring Baptist Church, is remembered on this day for the many and generous contributions she made to her family and community. Norma Jean Walton Blick will be deeply missed by all those whose lives were touched by her remarkable presence. Done in Frankfort, Kentucky, this fifth day of February, in the year two thousand and four.

Legislative Citation No. 22 was adopted without objection.

Representative Adkins moved that the rules be suspended for introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 460, by Representatives Hoffman and Weaver: AN ACT relating to waiver of tuition fees for dependents of veterans.

HB 461, by Representative Cherry: AN ACT relating to electrical licensing and declaring an emergency.

HB 462, by Representatives Walton, Kerr, Miller, Siler, and Burch: AN ACT relating to crimes and punishments.

HB 463, by Representative Webb: AN ACT relating to debtor-creditor relations.

HB 464, by Representative P. Clark: AN ACT relating to property taxes.

HB 465, by Representative P. Clark: AN ACT proposing to amend Section 170 of the Constitution of Kentucky relating to property taxes.

HB 466, by Representative De. Butler: AN ACT relating to alcoholic beverages.

HJR 126, by Representative Cornett: A JOINT RESOLUTION naming the Cpl. Joshua D. Harris Memorial Bridge in Letcher County.

HR 127, by Representative Nelson: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Dr. W. B. Bingham II.

HJR 128, by Representative Webb: A JOINT RESOLUTION directing the Legislative Research Commission to require the Interim Joint Committee on Banking and Insurance to study the feasibility of self-funding at least one health insurance option for state employees.

HJR 129, by Representative Pullin: A JOINT RESOLUTION relating to civic literacy.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Banking and Insurance: **HB 380**

Local Government: **HB 412, 406, 413**

State Government: **HB 430**

The Clerk announced that the following Bill has been withdrawn from posting for Committee consideration:

Banking and Insurance: **HB 215**

Motions, Petitions, and Communications (Continued)

Representative Thomas moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Thomas moved that he be recorded as voting "yea" on **HB 157**. Agreed.

Representative Nesler moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Nesler moved that he be recorded as voting "yea" on **HB 86**. Agreed. (A floor vote was not taken on **HB 86**)

Representative Burch moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Burch moved that he be recorded as voting "yea" on **HB 274**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crenshaw moved that he be recorded as voting "yea" on **HB 76**. Agreed.

Representative Webb moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Webb moved that she be recorded as voting "yea" on **HB 203, 305, 365, 274,** and **157**. Agreed. (A floor vote was not taken on **HB 365** until February 18, 2005)

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 90**, by Representative Burch:

HB 90, On page 2, line 12, after "*(3)*", by inserting "*After July 1, 2006,*".

Floor Amendment No. 3 to the Committee Substitute to **HB 325**, by Representative Crall:

HB 325, On page 2 line 3, after "*renew*" by deleting "*sixty (60)*" and inserting in lieu thereof "*ninety (90)*".

Floor Amendment No. 1 to the Committee Substitute to **HB 162**, by Representative Moberly:

HB 162, On page 1, line 8, after "*exhausted;*" by inserting "*and for the Court of Justice means a legal debt including any fine, fee, court costs or restitution due the Commonwealth, which have been imposed by a final sentence of a trial court of the Commonwealth and for which the time permitted for payment pursuant to the provisions of KRS 23A.205(3) or KRS 24A.175(4) has expired;*" and

On page 4, line 20 after "*(c)*", by inserting "*Beginning on October 1, 2005,*"; and

On page 4, line 20, after "*October 1*" by inserting "*of each year*"; and

On page 4, line 25, after "*years.*" by inserting "*The first year for which the Court of Justice shall be required to report is the fiscal year beginning on July 1, 2004 and ending on June 30, 2005. The Court of Justice shall not be required to report unliquidated debts in existence prior to July 1, 2004.*"

Floor Amendment No. 1 to the Committee Substitute to **HB 163**, by Representative Moberly:

HB 163, On page 4, line 26, by deleting "*at least a quarterly*" and inserting in lieu thereof "*a monthly*".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and a Resolution:

HB 11, Representatives Riner and Hoffman

HB 76, Representative Palumbo

HB 274, Representative McKee

HB 305, Representatives Hoffman and McKee

HB 336, Representative Wayne

HB 339, Representative McKee

HB 358, Representatives Harper, Mobley, Fischer, Crimm, T. Turner, and Bratcher

HB 372, Representative Nesler

HB 392, Representatives Barrows and Graham

HB 404, Representatives Hoffman and McKee

HB 442, Representative T. Thompson

HB 443, Representative Hoffman

HJR 126, Representative Weaver

The following member filed a request to have his name withdrawn as a co-sponsor of a Bill:

HB 286, Representative Dw. Butler

Announcements

The following meetings were announced:

Budget Review Subcommittee on Human Resources, Room 131, 15 minutes upon adjournment

Committee on Natural Resources, Room 125, 15 minutes upon adjournment

Budget Review Subcommittee on Economic Development and Tourism, Natural Resources and Environmental Protection, 30 minutes upon adjournment

Budget Review Subcommittee on Economic Development and Tourism, Natural Resources and Environmental Protection, Tuesday, February 10, 2004, 15 minutes upon adjournment

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 9:00 a.m., Friday, February 6, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 9:00 a.m., Friday, February 6, 2004, was adopted by voice vote.

FRIDAY, FEBRUARY 6, 2004

TWENTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Eliud Nderitu, Louisville Baptist Seminary Student from Kenya, Africa.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Burch, De. Butler, Coleman, Crall, Crenshaw, Draud, Haydon, Marzian, Nunn, and Stein.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 5, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Harmon moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Harmon moved the adoption of the following **Legislative Citation No. 23**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to the members of the Boyle County High School Rebels Football Team 2003 KHSAA Class AAA State Champions for their phenomenal athletic performance during the 2003 season that has resulted in this talented assemblage of athletes capturing their third consecutive Class AAA state title, which also marks their fifth consecutive state title overall, and finishing the season undefeated with a stellar record of 15-0. Inasmuch as the members of this celebrated team, under the capable leadership of Head Coach Chuck Smith, have enjoyed an outstanding year and have added yet another monument of success to an already extraordinary legacy of athletic achievement, the members of this distinguished body are delighted to join Representative Mike Harmon in commending the members and coaching staff of the Boyle County High School Football Team for their tremendous accomplishments and in extending best wishes for continued success and good fortune. Done in Frankfort, Kentucky, this sixth day of February, in the year two thousand and four.

Legislative Citation No. 23 was adopted without objection.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 464**

Banking and Insurance: **HJR 128**

Education: **HJR 129, SB 100**

Elections, Constitutional Amendments, and Intergovernmental Relations: **HB 465**

Health and Welfare: **SB 88**

Judiciary: **HB 462, 463**

Licensing & Occupations: **HB 461, 466**

Seniors, Military Affairs, and Public Safety: **HB 460**

Transportation: **HB 459, HJR 126**

House Floor: **HR 127**

Report of Committees

The Committee on Natural Resources reported **HB 369**, with Committee Substitute attached thereto, and **HJR 98**, with Committee Amendment attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 369, AN ACT relating to on-site sewage disposal system permits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.350 is amended to read as follows:

(1) The cabinet shall regulate the construction, installation, or alteration of on-site sewage disposal systems except for systems that have a surface discharge.

(2) No person, firm, or corporation shall construct, install, alter, or cause to be constructed, installed, or altered, any on-site sewage disposal system subject to regulation by the cabinet without having first obtained an on-site sewage disposal permit from the local health department. In lieu of inspection and certification by the local health department a licensed professional engineer in private practice licensed by the Commonwealth of Kentucky may perform site evaluations and approve system designs for an on-site sewage disposal system for the person, firm, or corporation and apply for the permit from the local health department, ***which shall approve or deny the request for permit within fifteen (15) days of the submission of the request and shall provide to the applicant, in the event of denial, all necessary information relating to requirements for approval and permitting of an on-site sewage disposal septic or alternative system installation by the local health department, or by another agency, in the event that the on-site disposal system required will involve a surface discharge***. The final systems installation inspection shall be performed by the local health department ***within fifteen (15) days of the owner's request to the local health department for a final inspection***. All applicable provisions of KRS Chapter 322 shall govern the licensed professional engineer. A professional engineer shall not perform site evaluations, approve system designs, or certify system installations of an on-site sewage disposal system on property owned by himself, an employee, or a partner of an engineering firm by which he is employed, or on property owned by the engineering firm. Nothing in this section shall be construed to deny a farmstead owner the right to obtain a permit. Except for farmstead owners on their own property, the construction, installation, or alteration shall be performed only by a person certified by the cabinet pursuant to KRS 211.357.

(3) A local health department that issues a permit for an on-site sewage disposal system based on the site evaluation or system design of a licensed professional engineer in private practice licensed by the Commonwealth of Kentucky shall not be held liable for any defects or failures of the on-site sewage disposal system due to the site evaluation or system design.

(4) No person, firm, or corporation shall use or continue to use or permit the use or continued use of any on-site sewage disposal system that is constructed, installed, or altered under an on-site sewage disposal permit if the cabinet or local health department through a duly authorized inspector, employee, agent, or licensed professional engineer in private practice licensed by the Commonwealth of Kentucky finds that the system was not constructed, installed, or altered in conformance with the permit and regulations issued by the cabinet.

(5) No certified electrical inspector acting under authority of KRS 227.491 shall issue the certificates of approval of temporary or permanent electrical wiring unless the inspector has in his or her possession a notice of release as described in paragraphs (a) and (b) of this subsection. The inspector shall record the number of the notice of release on the certificate of approval. The person requesting approval of electrical wiring shall be responsible for obtaining the release from the local health department and providing it to the electrical inspector. This requirement shall only apply to dwellings, mobile homes, manufactured housing, buildings, or other structures that are constructed or installed after July 15, 1998. This requirement shall not apply to structures that do not have sewage waste fixtures or to those that are connected to a sewage waste disposal system approved by the Natural Resources and Environmental Protection Cabinet. Nothing in this section shall be construed to deny the continued use of any electrical service connected to wiring approved prior to July 15, 1998.

(a) An initial notice of release to allow temporary electrical power for construction shall be issued to the property owner or owner's agent by the local health department upon the application for a site evaluation. ***All such site evaluations shall be conducted within fifteen (15) days of the submission of the request, regardless of weather conditions, and in all cases shall include a perk test soil evaluation prior to any determination that an alternative on-site sewage disposal system is to be required. If the evaluation determines that an alternative on-site disposal system having a surface discharge is necessary, thus requiring permitting by the Natural Resources and Environmental Protection Cabinet, the local health department shall forward all permit application information and evaluation documentation to the Natural Resources and Environmental Protection Cabinet on behalf of the owner, and the Natural Resources and Environmental Protection Cabinet shall conduct a site evaluation and make recommendations for sewage disposal system plans within fifteen (15) days of receiving the permit and evaluation documents from the local health department.***

(b) A final notice of release to allow for permanent electrical power shall be issued to the property owner or owner's agent by the local health department upon approval of an on-site sewage disposal plan ***not requiring a surface discharge. An on-site sewage disposal plan not requiring a surface discharge shall be processed and reviewed, and shall be either approved or denied by the local health department within fifteen (15) days of its submission to the health department. Any alternative on-site sewage system plan containing plans for a surface discharge***

shall by approved or denied by the Natural Resources and Environmental Protection Cabinet within fifteen (15) days of its submission.

(c) This section shall not apply to any county that has adopted the Uniform State Building Code and has and enforces on-site sewage disposal permitting.

(6) All applications for on-site sewage disposal permits shall be accompanied by plans and specifications for the proposed system, including results of soils tests and other information as directed by the cabinet by regulation. If the site evaluation or approval of the system design is performed by a licensed professional engineer in private practice licensed by the Commonwealth of Kentucky, the application shall be accompanied by a statement by the engineer that he has met the requirements of the regulations issued by the cabinet for site evaluation and system design. Any action to deny an application shall be subject to appeal, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(7) The cabinet shall fix a schedule of fees for the functions performed by the cabinet relating to the regulation of on-site sewage disposal systems. The fees shall be designed to fully cover the cost of the service performed but shall not exceed the cost of the service performed. Fees payable to the cabinet shall be paid into the State Treasury and credited to a trust and agency fund to be used by the cabinet in carrying out its responsibilities relating to the regulation of on-site sewage disposal systems. No part of the fund shall revert to the general fund of the Commonwealth.

(8) Any regulation relating to on-site sewage disposal that is in effect on July 15, 1992, shall remain in effect until altered by the secretary. The secretary may issue additional regulations necessary to carry out the purposes of this section.

(9) Nothing in this section shall authorize or allow the cabinet to inspect or take enforcement action against on-site sewage disposal systems installed on farmsteads prior to July 15, 1992, or modifications to those systems unless the actions are determined in writing by the cabinet, upon a written, verified complaint, to be necessary to prevent imminent harm or damage to the safety, life, or health of a person. In this instance, the cabinet shall deliver to the landowner a copy of the written determination and the verified complaint prior to the commencement of the inspection or enforcement action.

Section 2. KRS 211.380 is amended to read as follows:

If a proposed site fails to meet the criteria established by the cabinet for a septic tank system***, the owner shall be notified in writing within fifteen (15) days of the soil evaluation, and provided with information relating to an alternative on-site sewage system alternative that can be approved, and*** a permit shall be granted for an approved on-site sewage disposal system other than a septic tank, including modified subsurface systems, mechanical systems, and any other system appropriate to the individual characteristics of the site which will provide sewage treatment that meets established water quality criteria and health standards. ***In the event the alternative on-site sewage system will require a surface discharge, and thus the approval and permitting of an agency other than a local health department, the health department shall, within fifteen (15) days, submit, on behalf of the owner, all documentation regarding evaluation and possible alternatives to the appropriate agency for permit approval of on-site sewage systems with surface discharge.***

Section 3. KRS 318.134 is amended to read as follows:

(1) No person, firm, or corporation shall:

(a) Construct, install, or alter, or cause to be constructed, installed, or altered, any plumbing without first having procured a plumbing installation permit therefor from the department;

(b) Use or continue to use, or permit the use or continued use of, any plumbing constructed, installed, or altered under a plumbing installation permit issued therefor where the department through a duly authorized inspector, employee, or agent, finds that the plumbing was not constructed, installed, or altered in accordance with such permit and the Kentucky State Plumbing Code.

(2) All applications for plumbing installation permits shall be accompanied by plans and specifications of the proposed plumbing installation, location, and construction of the water supply system to be used. ***The department shall have fifteen (15) days from the date of submission to either approve or deny a permit for installation.*** If an on-site sewage disposal system that does not have a surface discharge is proposed, a valid on-site sewage disposal permit issued by the Cabinet for Health Services or its designated agent shall accompany the application.

(3) The department shall fix a reasonable schedule of fees and charges to be paid for plumbing installation permits and the necessary inspections incident thereto. The department shall also fix a reasonable schedule of fees and charges to be paid for necessary inspections of the construction, installation, or alteration of plumbing in public buildings.

Section 4. KRS 318.160 is amended to read as follows:

Except as otherwise provided by law or by regulation of the department, no person shall construct, install, or extensively alter any plumbing, sewerage, or water supply system of any public building or establishment without having first obtained the approval of the department in writing. Detailed plans and specifications of the proposed facility showing the plumbing system, sewage disposal system, and water supply system shall be submitted to the department prior to the construction or alteration of the facility. In the event no public sewer is available, the plan shall include the proposed type of sewage disposal system. In the event a sewage subsoil drainage system is used, or some other type of on-site sewage disposal system that does not have a surface discharge, the application for construction, installation, or alteration of such system shall be submitted to the Cabinet for Health Services or its designated agent. All other plans and specifications shall be submitted in triplicate to the department. The department shall notify the applicant in writing of the approval or disapproval of the plans ***within fifteen (15) days of their submission***. The construction, installation, or alteration shall be done in accordance with the approved plans.

The Committee Substitute to **HB 369** is as follows:

HB 369, AN ACT relating to on-site sewage disposal system permits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.350 is amended to read as follows:

(1) The cabinet shall regulate the construction, installation, or alteration of on-site sewage disposal systems except for systems that have a surface discharge.

(2) No person, firm, or corporation shall construct, install, alter, or cause to be constructed, installed, or altered, any on-site sewage disposal system subject to regulation by the cabinet without having first obtained an on-site sewage disposal permit from the local health department. In lieu of inspection and certification by the local health department a licensed professional engineer in private practice licensed by the Commonwealth of Kentucky may perform site evaluations and approve system designs for an on-site sewage disposal system for the person, firm, or corporation and apply for the permit from the local health department***, which shall approve or deny the request for permit within fifteen (15) working days of the submission of the request and shall provide to the applicant, in the event of denial, all necessary information relating to requirements for approval and permitting of an on-site sewage disposal septic or alternative system installation by the local health department, or by another agency, in the event that the on-site disposal system required will involve a surface discharge***. The final systems installation inspection shall be performed by the local health department ***within fifteen (15) working days of the owner's request to the local health department for a final inspection***. All applicable provisions of KRS Chapter 322 shall govern the licensed professional engineer. A professional engineer shall not perform site evaluations, approve system designs, or certify system installations of an on-site sewage disposal system on property owned by himself, an employee, or a partner of an engineering firm by which he is employed, or on property owned by the engineering firm. Nothing in this section shall be construed to deny a farmstead owner the right to obtain a permit. Except for farmstead owners on their own property, the construction, installation, or alteration shall be performed only by a person certified by the cabinet pursuant to KRS 211.357.

(3) A local health department that issues a permit for an on-site sewage disposal system based on the site evaluation or system design of a licensed professional engineer in private practice licensed by the Commonwealth of Kentucky shall not be held liable for any defects or failures of the on-site sewage disposal system due to the site evaluation or system design.

(4) No person, firm, or corporation shall use or continue to use or permit the use or continued use of any on-site sewage disposal system that is constructed, installed, or altered under an on-site sewage disposal permit if the cabinet or local health department through a duly authorized inspector, employee, agent, or licensed professional engineer in private practice licensed by the Commonwealth of Kentucky finds that the system was not constructed, installed, or altered in conformance with the permit and regulations issued by the cabinet.

(5) No certified electrical inspector acting under authority of KRS 227.491 shall issue the certificates of approval of temporary or permanent electrical wiring unless the inspector has in his or her possession a notice of release as described in paragraphs (a) and (b) of this subsection. The inspector shall record the number of the notice of release on the certificate of approval. The person requesting approval of electrical wiring shall be responsible for obtaining the release from the local health department and providing it to the electrical inspector. This requirement shall only apply to dwellings, mobile homes, manufactured housing, buildings, or other structures that are constructed or installed after July 15, 1998. This requirement shall not apply to structures that do not have sewage waste fixtures or to those that are connected to a sewage waste disposal system approved by the Natural Resources and Environmental Protection Cabinet. Nothing in this section shall be construed to deny the continued use of any electrical service connected to wiring approved prior to July 15, 1998.

(a) An initial notice of release to allow temporary electrical power for construction shall be issued to the property owner or owner's agent by the local health department upon the application for a site evaluation. ***All such site evaluations shall be conducted within fifteen (15) working days of the submission of the request, regardless of weather conditions, and in all cases shall include a perk test soil evaluation prior to any determination that an alternative on-site sewage disposal system is to be required. If the evaluation determines that an alternative on-site disposal system having a surface discharge is necessary, thus requiring permitting by the Natural Resources and Environmental Protection Cabinet, the local health department shall forward all permit application information and evaluation documentation to the Natural Resources and Environmental Protection Cabinet on behalf of the owner, and the Natural Resources and Environmental Protection Cabinet shall conduct a site evaluation and make recommendations for sewage disposal system plans within fifteen (15) working days of receiving the permit and evaluation documents from the local health department.***

(b) A final notice of release to allow for permanent electrical power shall be issued to the property owner or owner's agent by the local health department upon approval of an on-site sewage disposal plan ***not requiring a surface discharge. An on-site sewage disposal plan not requiring a surface discharge shall be processed and reviewed, and shall be either approved or denied by the local health department within fifteen (15) working days of its***

submission to the health department. Any alternative on-site sewage system plan containing plans for a surface discharge shall by approved or denied by the Natural Resources and Environmental Protection Cabinet within fifteen (15) working days of its submission.

(c) This section shall not apply to any county that has adopted the Uniform State Building Code and has and enforces on-site sewage disposal permitting.

(6) All applications for on-site sewage disposal permits shall be accompanied by plans and specifications for the proposed system, including results of soils tests and other information as directed by the cabinet by regulation. If the site evaluation or approval of the system design is performed by a licensed professional engineer in private practice licensed by the Commonwealth of Kentucky, the application shall be accompanied by a statement by the engineer that he has met the requirements of the regulations issued by the cabinet for site evaluation and system design. Any action to deny an application shall be subject to appeal, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(7) The cabinet shall fix a schedule of fees for the functions performed by the cabinet relating to the regulation of on-site sewage disposal systems. The fees shall be designed to fully cover the cost of the service performed but shall not exceed the cost of the service performed. Fees payable to the cabinet shall be paid into the State Treasury and credited to a trust and agency fund to be used by the cabinet in carrying out its responsibilities relating to the regulation of on-site sewage disposal systems. No part of the fund shall revert to the general fund of the Commonwealth.

(8) Any regulation relating to on-site sewage disposal that is in effect on July 15, 1992, shall remain in effect until altered by the secretary. The secretary may issue additional regulations necessary to carry out the purposes of this section.

(9) Nothing in this section shall authorize or allow the cabinet to inspect or take enforcement action against on-site sewage disposal systems installed on farmsteads prior to July 15, 1992, or modifications to those systems unless the actions are determined in writing by the cabinet, upon a written, verified complaint, to be necessary to prevent imminent harm or damage to the safety, life, or health of a person. In this instance, the cabinet shall deliver to the landowner a copy of the written determination and the verified complaint prior to the commencement of the inspection or enforcement action.

Section 2. KRS 211.380 is amended to read as follows:

If a proposed site fails to meet the criteria established by the cabinet for a septic tank system***, the owner shall be notified in writing within fifteen (15) working days of the soil evaluation, and provided with information relating to an alternative on-site sewage system alternative that can be approved***, ***and*** a permit shall be granted for an approved on-site sewage disposal system other than a septic tank, including modified subsurface systems, mechanical systems, and any other system appropriate to the individual characteristics of the site which will provide sewage treatment that meets established water quality criteria and health standards. ***In the event the alternative on-site sewage system will require a surface discharge, and thus the approval and permitting of an agency other than a local health department, the health department shall, within fifteen (15) working days, submit, on behalf of the owner, all documentation regarding evaluation and possible alternatives to the appropriate agency for permit approval of on-site sewage systems with surface discharge.***

Section 3. KRS 318.134 is amended to read as follows:

(1) No person, firm, or corporation shall:

(a) Construct, install, or alter, or cause to be constructed, installed, or altered, any plumbing without first having procured a plumbing installation permit therefor from the department;

(b) Use or continue to use, or permit the use or continued use of, any plumbing constructed, installed, or altered under a plumbing installation permit issued therefor where the department through a duly authorized inspector, employee, or agent, finds that the plumbing was not constructed, installed, or altered in accordance with such permit and the Kentucky State Plumbing Code.

(2) All applications for plumbing installation permits shall be accompanied by plans and specifications of the proposed plumbing installation, location, and construction of the water supply system to be used. ***The department shall have fifteen (15) working days from the date of submission to either approve or deny a permit for installation.*** If an on-site sewage disposal system that does not have a surface discharge is proposed, a valid on-site sewage disposal permit issued by the Cabinet for Health Services or its designated agent shall accompany the application.

(3) The department shall fix a reasonable schedule of fees and charges to be paid for plumbing installation permits and the necessary inspections incident thereto. The department shall also fix a reasonable schedule of fees and charges to be paid for necessary inspections of the construction, installation, or alteration of plumbing in public buildings.

Section 4. KRS 318.160 is amended to read as follows:

Except as otherwise provided by law or by regulation of the department, no person shall construct, install, or extensively alter any plumbing, sewerage, or water supply system of any public building or establishment without having first obtained the approval of the department in writing. Detailed plans and specifications of the proposed facility showing the plumbing system, sewage disposal system, and water supply system shall be submitted to the department prior to the construction or alteration of the facility. In the event no public sewer is available, the plan shall include the proposed type of sewage disposal system. In the event a sewage subsoil drainage system is used, or some other type of on-site sewage disposal system that does not have a surface discharge, the application for construction, installation, or alteration of such system shall be submitted to the Cabinet for Health Services or its designated agent. All other plans and specifications shall be submitted in triplicate to the department. The department shall notify the applicant in writing of the approval or disapproval of the plans ***within fifteen (15) working days of their submission***. The construction, installation, or alteration shall be done in accordance with the approved plans.

HJR 98, A JOINT RESOLUTION relating to the regulation of the noncoal mineral industry and declaring an emergency.

WHEREAS, the Natural Resources and Environmental Protection Cabinet promulgated administrative regulations located in 405 KAR Chapter 5, effective February 22, 1995, imposing requirements on noncoal mineral operations in the Commonwealth of Kentucky; and

WHEREAS, the Natural Resources and Environmental Protection Cabinet promulgated administrative regulations located in 405 KAR Chapter 5, effective September 12, 2003, imposing additional requirements on noncoal mineral operations in the Commonwealth of Kentucky; and

WHEREAS, on August 7, 2003, the Administrative Regulation Review Subcommittee made a determination that the additional requirements imposed pursuant to the administrative regulations, which were effective on September 12, 2003, were deficient pursuant to KRS Chapter 13A; and

WHEREAS, on September 10, 2003, the Interim Joint Committee on Agriculture and Natural Resources made a determination that the additional requirements imposed pursuant to the administrative regulations, which were effective on September 12, 2003, were deficient pursuant to KRS Chapter 13A;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Notwithstanding any provision of law to the contrary, the secretary of the Natural Resources and Environmental Protection Cabinet shall promulgate emergency and ordinary administrative regulations that are identical to the following administrative regulations that became effective on February 22, 1995, according to the records of the regulations compiler of the Legislative Research Commission:

(1) 405 KAR 5:001;
(2) 405 KAR 5:030;
(3) 405 KAR 5:035;
(4) 405 KAR 5:038;
(5) 405 KAR 5:045;
(6) 405 KAR 5:053;
(7) 405 KAR 5:060;
(8) 405 KAR 5:075; and
(9) 405 KAR 5:080.

Section 2. The administrative regulations required to be promulgated pursuant to Section 1 of this Resolution shall be promulgated within thirty (30) days of the effective date of this Resolution.

Section 3. Because it is essential for noncoal mineral operations to be regulated in the Commonwealth of Kentucky, and because it is essential to keep prices of noncoal minerals affordable and supplies adequate, an emergency is declared to exist and this Resolution shall take effect upon its passage and approval by the Governor, or upon its otherwise becoming effective.

The Committee Amendment No. 1 to **HJR 98** is as follows:

HJR 98, On page 2, by deleting line 4 in its entirety; and

On page 2, line 5, by deleting "(7)" and inserting "(6)" in lieu thereof; and

On page 2, line 6, by deleting "(8)" and inserting "(7)" in lieu thereof; and

On page 2, line 7, by deleting "(9)" and inserting "(8)" in lieu thereof.

Calendar

HB 261, 321, 85, 172, 357, HJR 7, 9, 11, 19, 40, 42, 43, 46, 54, 82, 91, and **HB 404** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Senate Message

Announcing passage: **SB 36, 45, 92,** and **103** (9:10 a.m.)

Orders of the Day

HB 226, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved the adoption of the Committee Substitute to **HB 226**. Agreed.

Representative Weaver moved that **HB 226**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 87, Nays 0**. (See February 6, 2004, roll call on **HB 226** - Appendix.)

HB 226, by way of Committee Substitute, was passed and the title agreed to.

Representative Weaver moved that the vote by which **HB 226**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 392 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 392** be passed.

On the roll call the vote was: **Yeas 86, Nays 0**. (See February 6, 2004, roll call on **HB 392** - Appendix.)

HB 392 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 392** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 91 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved that **HB 91** be passed.

On the roll call the vote was: **Yeas 84, Nays 1**. (See February 6, 2004, roll call on **HB 91** - Appendix.)

HB 91 was passed and the title agreed to.

Representative Webb moved that the vote by which **HB 91** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 432 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sims moved that **HB 432** be passed.

On the roll call the vote was: **Yeas 88, Nays 0**. (See February 6, 2004, roll call on **HB 432** - Appendix.)

HB 432 was passed and the title agreed to.

Representative Sims moved that the vote by which **HB 432** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 67 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HCR 67** be adopted.

On the roll call the vote was: **Yeas 84, Nays 0**. (See February 6, 2004, roll call on **HCR 67** - Appendix.)

HCR 67 was adopted.

Motions, Petitions, and Communications

Representative Yonts moved that **HB 453** be withdrawn. Agreed.

Representative Upchurch moved the adoption of the following **Legislative Citation No. 24.**

The House of Representatives of the Commonwealth of Kentucky hereby pays most ardent tribute to President Ronald Wilson Reagan upon the auspicious occasion of Ronald Reagan Day in this Commonwealth, a day which commemorates the birthday of one of this nation's most beloved and respected leaders. Elected to serve as President in 1980, President Reagan's election was the culmination of a lifetime of labor on behalf of the public good. A beloved entertainer for many years; respected Union leader and corporate spokesman; and, two-term Governor of California, this distinguished gentleman assumed office for the first time on January 20, 1981, and would go on to be re-elected in 1984, claiming victory in 49 of the 50 states in the general election, a record yet unsurpassed in any American presidential election. During his tenure in the Oval Office, he worked in a bipartisan manner to enact a bold agenda of restoring accountability and common sense to government, a monumental feat which led to unprecedented economic expansion and new opportunities for millions of Americans; maintained a steadfast commitment to an active social policy agenda for the nation's children which helped to lower crime and drug use across the country; remained committed to the United States Armed Forces which contributed to a renewed pride in America and prepared those forces to meet the impending challenges of the 21st century; and, brought to fruition his vision of "peace through strength," which led to the end of the Cold War and the ultimate demise of the Soviet Union, guaranteeing basic human rights for millions of people. Inasmuch as President Ronald Wilson Reagan made an indelible mark on this nation's history by his unwavering integrity and faith in this nation's infinite potential and by his lifelong commitment to seeing the advancement of all Americans, the members of this august body are deeply honored to join Representative Jeffrey Hoover in paying tribute to President Reagan on the occasion of his 93rd birthday and in extending to him best wishes for many future years of health and happiness. Done in Frankfort, Kentucky, this sixth day of February, in the year two thousand and four.

Legislative Citation No. 24 was adopted without objection.

Representative Nelson moved the adoption of the following **HR 127**:

HR 127, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Dr. W. B. Bingham II.

With deepest respect and admiration, we pay homage and tribute to Dr. W. B. Bingham II, and we pause in silent reverence for his soul.

WHEREAS, Dr. W. B. Bingham II was born on January 25, 1922, a native of Stinking Creek at Dewitt, Knox County, Kentucky, and longtime resident of Middlesboro, Bell County, Kentucky, and he crossed that final bourne from which no traveler returns on February 1, 2004; and

WHEREAS, Dr. W. B. Bingham II was the loving son of the late William Boyd Bingham and Ellen Williamson Bingham; he was the devoted husband of 62 years to Mae Bowling Bingham, who also was his faithful partner in the ministry; he was the loving father of three sons, Conley Bingham, Garry Bingham, and William Boyd Bingham III, and a daughter, Bonita Bingham; he was the loving father-in-law to Nancy Jones Bingham, Melissa Howard Bingham, Joan Bisceglia Bingham, and Clyde Creech, all of Middlesboro; he was the proud grandfather of seven grandchildren, and he was the proud great-grandfather of a great-grandchild; and he also leaves behind a loving sister, Mary Bingham Brewer of Dewitt, and a loving brother, N. P. Bingham of Harlan; and

WHEREAS, Dr. W. B. Bingham II was an esteemed member of the Bell County community, where he was pastor of Binghamtown Baptist Church for 54 years, and under his guidance, the church membership grew from 250 to over 3,500 parishioners; during his 60 year career in the ministry, he conducted over 5,000 funerals, over 500 revivals, and he preached from Alaska to Israel; he was instrumental in establishing the Gateway Christian School, which now has 300 students enrolled through 8th grade; and he also led the church in the ministry of media outreach through W. M. I. K. Christian Radio, and a regional television ministry covering six states; and

WHEREAS, Dr. W. B. Bingham II, affectionately known to all as "Preacher Bingham," was loved, highly respected, and admired for his guidance and wisdom; he was a faithful servant to God, and a loving minister to his flock; he hated sin, but loved the sinner; and he campaigned tirelessly for temperance and anti-gambling causes in Bell County, and throughout the Commonwealth and the nation; and

WHEREAS, the passing of Dr. W. B. Bingham II has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Dr. W. B. Bingham II, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Dr. W. B. Bingham II.

Section 3. The Clerk of the House of Representatives is hereby directed to transfer copies of this Resolution to Mrs. Mae Bowling Bingham, 1100 North 25th Street, Middlesboro, Kentucky 40965; and to Binghamtown Baptist Church, P. O. Box Z, Middlesboro, Kentucky 40965.

There being no objection, **HR 127** was adopted.

Representative Graham moved the adoption of the following **Legislative Citation No. 25**.

The House of Representatives of the Commonwealth of Kentucky hereby offers a most enthusiastic welcome to Alex Garrett Sanders IV as he visits the chambers of the House of Representatives during this day of the 2004 Regular Session of the Kentucky General Assembly. The talented son of Mary G. Tillman and the late Alex "Bud" Sanders, and the loving grandson of Mary G. Tillman and Alex and Mae Sanders, this esteemed individual recently participated in the International Model and Talent Agency Convention in Los Angeles, California, where he won top honors in Team Dance, second place runner-up honors in Team Fashion, fourth place runner-up honors in TV Commercial Beauty, and honorable mention honors in Theatrical Headshots, Commercial Print, Cold Read and I'm Ready for My Close-up. Inasmuch as Alex Garrett Sanders IV has demonstrated tremendous talent and outstanding promise in the fields of modeling and acting, which have garnered the interest of several well-known talent agencies, the members of this august body are delighted to join Representative Derrick W. Graham in applauding this remarkable young gentleman on this momentous occasion and in extending to him best wishes for continuing success and good fortune. Done in Frankfort, Kentucky, this sixth day of February, in the year two thousand and four.

Legislative Citation No. 25 was adopted without objection.

Representative Hoffman moved the adoption of the following **HR 125**:

HR 125, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Charles Kavanaugh Hamilton.

With deepest respect and admiration, we pay homage and tribute to Charles Kavanaugh Hamilton, and we pause in silent reverence for his soul.

WHEREAS, Charles Kavanaugh Hamilton was born on December 4, 1957, a native of Lexington, and longtime resident of Scott County, Kentucky, and he traversed these earthly bounds on January 23, 2004; and

WHEREAS, Charles Kavanaugh Hamilton was the loving son of Charles W. and Irma Louise Sutherland Hamilton; he was the devoted husband of Carolyn Courtney Hamilton; he was the loving father of a daughter, Brianna Hamilton; a stepson, Ryan Hayden; and two stepdaughters, Mica Dryer and Gina Phelps; and he was the proud step-grandfather of a step-granddaughter, Alissa Sanders, all of Sadieville; and

WHEREAS, Charles Kavanaugh Hamilton graduated from the University of Kentucky, and at the time of his passing, he was District Manager with the United States Department of Agriculture in Rural Development; and

WHEREAS, Charles Kavanaugh Hamilton was an esteemed member of the Scott County community, where he was a member of Dry Run Baptist Church; he was president and also served as current treasurer of the Scott County F. F. A. Alumni; he was responsible for recruiting over 150 members for the alumni chapter, and traveled across the state to recruit other alumni members and organize new chapters; and through his efforts, the Scott County chapter has given over $100,000 in scholarships and sponsorships; and he was the recipient of the 2000 National F. F. A. Alumni Member of the Year award; and

WHEREAS, the passing of Charles Kavanaugh Hamilton has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Charles Kavanaugh Hamilton, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Charles Kavanaugh Hamilton.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Carolyn Courtney Hamilton, 185 Elk Lick Road, Sadieville, Kentucky 40370.

There being no objection, **HR 125** was adopted.

Representative Adkins moved that **HB 340** be recommitted to the Committee on Appropriations and Revenue. Agreed.

Representative Adkins moved that the rules be suspended for introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 467, by Representative Yonts: AN ACT relating to Kentucky automobile insurance plan and declaring an emergency.

HB 468, by Representative Gooch: AN ACT relating to cervids.

HB 469, by Representative Napier: AN ACT relating to crimes and punishments.

HB 470, by Representative Riggs: AN ACT relating to the Kentucky insurance guaranty association.

HB 471, by Representative T. Thompson: AN ACT relating to consumer protection.

HB 472, by Representative Stewart: AN ACT relating to the removal of railroad crossings.

HB 473, by Representative T. Thompson: AN ACT relating to toll roads.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Judiciary: **HB 190, 221, 264, 431, 445**

Appropriations and Revenue: **HB 418**

Agriculture and Small Business: **HB 441**

Motions, Petitions, and Communications (Continued)

Representative Nesler moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Nesler moved that he be recorded as voting "yea" on **HB 91, 392,** and **226**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "nay" on **HB 157**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 76**. Agreed.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 372**, by Representative T. Thompson:

HB 372, On page 5, line 4, after "***shall***" by inserting "***upon request***"; and

On page 5, line 6, by deleting "***all designated***" and inserting in lieu thereof "***any***"; and

On page 5, line 9, by deleting "***limited***" and inserting in lieu thereof "***modified***"; and

On page 6, line 18, by deleting "***information requested***" and inserting in lieu thereof "***the information relating to its health benefit plan that has been requested***"; and

On page 7, line 15, by deleting "***information requested***" and inserting in lieu thereof "***the information relating to its health benefit plan that has been requested***"; and

On page 8, line 15, after "***small group,***" by inserting "***association, employer-organized association,***"; and

On page 10, line 13, after "***plan***" by inserting "***and the individual has voluntarily waived the association group coverage pursuant to this Act***"; and

On page 11, after line 18, by inserting:

"Section 9. This Act may be cited as the Small Business Health Insurance Relief Act of 2004.".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 108, Representatives Riggs, A. Smith, Gray, and Cherry

HB 188, Representatives Hall, Pasley, Riggs, A. Smith, Damron, Nesler, Nelson, Gooch, R. Adams, Ballard, Hoffman, Rand, J. Arnold, A. Arnold, T. Thompson, Gray, and Buckingham

HB 226, Representative Palumbo

HB 277, Representative Sims

HB 372, Representative Dw. Butler

HB 392, Representative Palumbo

HB 413, Representative Crimm

HB 450, Representatives Gray, Cherry, and J. Adams

HB 460, Representatives Miller, Siler, Walton, L. Clark, Nelson, Buckingham, Cherry, J. Arnold, Sims, A. Arnold, Gooch, Edmonds, and T. Thompson

HCR 14, Representatives Ballard, Riggs, A. Smith, Nesler, Rand, J. Arnold, Hoffman, A. Arnold, Gray, and Buckingham

HCR 44, Representatives Ballard, Pasley, R. Adams, Riggs, Damron, A. Smith, Nesler, Rand, T. Thompson, J. Arnold, A. Arnold, Buckingham, and Cherry

HCR 45, Representatives Pasley, Ballard, Damron, A. Smith, Nesler, R. Adams, Hoffman, Rand, T. Thompson, J. Arnold, A. Arnold, and Buckingham

HJR 7, Representative Pasley

The following member filed a request to have his name withdrawn as co-sponsor of a Bill:

HB 303, Representative Weaver

Announcements

The following meeting was announced:

Budget Review Subcommittee on Human Services - Monday, February 9, 2004, Room 131, 1:00 p.m.

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 4:00 p.m., Monday, February 9, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 4:00 p.m., Monday, February 9, 2004, was adopted by voice vote.

MONDAY, FEBRUARY 9, 2004

TWENTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Robert A. Strode, St. John AME Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

David Jones sang the National Anthem.

The roll was called. All members present except Representative Bather.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 6, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Banking and Insurance: **HB 467, 470**

Judiciary: **HB 469, 471**

Natural Resources and Environment: **HB 468**

Transportation: **HB 472, 473**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Licensing and Occupations: **HB 442, 466**

Calendar

HB 369 and **HJR 98** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 369, 172, 321, 404, HJR 9, 11, 19, 40, 42, 46, 91,** and **HB 183** have been posted for passage in the Regular Orders of the Day for February 10, 2004.

Orders of the Day

HB 90, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HB 90**. Agreed.

Representative Burch moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 90**. Agreed.

Representative Burch moved that **HB 90**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See February 9, 2004, roll call on **HB 90** - Appendix.)

HB 90, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 90**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 359, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stein moved the adoption of the Committee Substitute to **HB 359**. Agreed.

Representative Stein moved that **HB 359**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 9, 2004, roll call on **HB 359** - Appendix.)

HB 359, by way of Committee Substitute, was passed and the title agreed to.

Representative Stein moved that the vote by which **HB 359**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Palumbo moved the adoption of the following **Legislative Citation No. 26**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Jane Martin Delker January 14, 1952 - February 7, 2004 and respectfully joins with Representative Ruth Ann Palumbo in expressing deepest sympathy to the Delker and Martin Families and all those who share in the loss of this distinguished citizen. The daughter of the late Jesse Jack and Olive Conover Martin, she is survived by her cherished husband, William Boyd Delker; beloved children, Jessica Mason Delker and William Martin Delker; siblings, Mary Katherine, James and John Ewing; mother-in-law, Betty; niece, Amelia Anne; and, a host of other family members and loved ones. A landscape architect with John L. Carman & Associates and a member of the State Board of Examiners and Registration of Landscape Architects and of both the American and Kentucky Societies of Landscape Architects, Mrs. Delker also gave generously of her time and talents as a sustainer in the Junior League of Lexington; as a leader in the Shadeland East Homeowners Association; and, as an Elder of the First Presbyterian Church. Jane Martin Delker is remembered on this day for the many and generous contributions she made to her family, friends and community and will be deeply missed by all those whose lives were touched by her remarkable presence. Done in Frankfort, Kentucky, this ninth day of February, in the year two thousand and four.

Legislative Citation No. 26 was adopted without objection.

Representative Palumbo moved the adoption of the following Legislative Citation **No. 27**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Thomas Ray Walton November 12, 1925 - February 5, 2004 and respectfully joins with Representative Ruth Ann Palumbo in expressing deepest sympathy to the Walton Family and all those who share in the loss of this distinguished citizen. The son of the late Thomas Newton and Virginia Carrier Walton, he was preceded in death by a brother, Lloyd Allen. He is survived by his cherished wife, Sarah Dean Walton; beloved daughters, Deborah and Donna; siblings, Jeannie and Mildred; grandchildren, Phillip, Stacy, Quinton and Lauren; great-grandson, Jackson Thomas; and, a host of other family members and loved ones. An honorable veteran of the United States Navy, this esteemed citizen was a retired transport driver from the Chevron Oil Company and a dedicated member of the Palomar Baptist Church. Thomas Ray Walton is remembered on this day for the many and generous contributions he made to his family, friends and community and will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, Kentucky, this ninth day of February, in the year two thousand and four.

Legislative Citation No. 27 was adopted without objection.

Representative Burch moved that the rules be suspended to introduce and act upon a resolution. Agreed.

Introduction of Bills and Resolutions

HR 130, by Representatives Burch, Palumbo, Stein, Jenkins, L. Clark, Miller, Siler, Meeks, P. Clark, Horlander, and Bather: A RESOLUTION relating to adjourning the House of Representatives in loving memory and honor of William J. Kearney Jr..

Representative Burch moved the adoption of the following **HR 130**:

HR 130, A RESOLUTION adjourning the House of Representatives in loving memory and honor of William J. Kearney Jr.

With deepest respect and admiration, we pay homage and tribute to William J. Kearney Jr., and we pause in silent reverence for his soul.

WHEREAS, William J. Kearney Jr. was born on January 11, 1926, a native of Louisville, Jefferson County, Kentucky, and he traversed these earthly bounds on February 2, 2004; and

WHEREAS, William J. Kearney Jr. was the devoted husband of Mary Ann (Diebold) Kearney; he was the loving father of William J. Kearney III, J. Grady Kearney, Michael J. Kearney, Thomas Kearney, Kathy Schell, Mary Lou Marzian, Lena Kearney, and Genie Kearney; and he was the proud grandfather of 9 grandchildren; and

WHEREAS, William J. Kearney Jr. was an able attorney for the firm of Ackerson Mosley & Yann, and he was a vice president of the Commonwealth Life Insurance Company; and

WHEREAS, William J. Kearney Jr. was a man of service and an achiever, having served his neighbors as vice president of the Commonwealth Life Insurance Company, his profession as a member of the Kentucky Bar Association, and his nation as a member of the United States Navy in the Second World War; and

WHEREAS, William J. Kearney Jr. was a devout member of Saint Pius X Catholic Church, where his funeral Mass will be held on February 6, 2004; and

WHEREAS, the passing of William J. Kearney Jr. has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of William J. Kearney Jr., and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of William J. Kearney Jr.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Mary Lou Marzian, 2007 Tyler Lane, Louisville, Kentucky 40205

There being no objection, **HR 130** was adopted.

The roll call was opened for co-sponsors of **HR 130**, and on the roll call the vote was: **Yeas 89**.

Representative S. Lee moved the adoption of the following **Legislative Citation No. 28**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Central Kentucky Radio Eye, Inc. a non-profit, volunteer-based audio reading service for blind or print-handicapped individuals in Central Kentucky, for working with great dedication to meet the needs of this very special constituency. Founded in 1990 by Alfred Crabb, this vital organization has enhanced and expanded its mission and now counts among its many accomplishments, a program that broadcasts all day/everyday, on closed circuit radio to an estimated 1,500 individuals; an additional broadcast for twelve hours a week on local cable TV, Library Channel 20, for the benefit of 10,000 listeners in Fayette County. Increased funding, increased contributions from publishers of newspapers and magazines, and an energetic and devoted team of volunteers and listeners represent the tremendous efforts and successes by all those who have contributed so richly to this unique and vital organization. The members of this honorable body are delighted to express deep appreciation to Central Kentucky Radio Eye, Inc., for its efforts to improve and enrich the lives of those it serves with such unfaltering dedication. Done in Frankfort, Kentucky, this ninth day of February, in the Year of our Lord Jesus Christ, two thousand and four.

Legislative Citation No. 28 was adopted without objection.

Representative S. Lee moved the adoption of the following **Legislative Citation No. 29**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Margaret Chase for outstanding service to Central Kentucky Radio Eye, Inc., a non-profit, volunteer-based audio reading service for blind or print-handicapped individuals in Central Kentucky. A native of England who previously worked for the Royal National Institute for the Blind, Ms. Chase served CKRE first as a volunteer reader and within two years took her place on the board of directors, leading to her appointment as Executive Director in 2000, and Chair of the Board in 2002. Once at the helm of this vital organization, founded in 1990 by Dr. Alfred Crabb, Ms. Chase worked diligently to enhance and expand the organization's mission, and counts among the organization's accomplishments, a program that broadcasts all day/everyday, on closed circuit radio to an estimated 1,500 individuals; an additional broadcast for twelve hours a week on local cable TV, Library Channel 20, for the benefit of 10,000 listeners in Fayette County; increased funding; adding new shows; and, expanding local broadcast hours. Her personal drive and passion for the individuals which CKRE serves, evidenced in improved volunteer auditions, performance in speaking and sound board operation skills, and direct outreach to listeners through surveys, enabling optimal programming of current events and relevant health news, represent the tremendous effort that has been put forth by this most extraordinary and dedicated woman. In addition, Ms. Chase's infectious joy and spirit has spearheaded an energetic and informative outreach campaign that encourages community involvement in volunteer service and/or provides free information and resources to listeners, press releases and community news, and increases contributions from publishers of newspapers and magazines. The members of this honorable body are delighted to express deep appreciation to Margaret Chase for generously and humbly using her talents and skills to do remarkable work that contributes mightily to the common good. Done in Frankfort, Kentucky, this ninth day of February, in the Year of our Lord Jesus Christ, two thousand and four.

Legislative Citation No. 29 was adopted without objection.

Representative Adkins moved that **HB 303** be recommitted to the Committee on Judiciary. Agreed.

Representative Adkins moved that **HB 415** be reassigned to the Committee on Labor and Industry. Agreed.

Representative Adkins moved that the rules be suspended to waive the posting on **HB 427**. Agreed.

Representative Adkins moved that the rules be suspended for introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 474, by Representative Nelson: AN ACT relating to compulsory school attendance.

HB 475, by Representatives Webb, Feeley, Westrom, Stein, Brinkman, Wayne, J. Adams, Graham, Meeks, P. Clark, Simpson, Wilkey, Harper, Draud, and Marzian: AN ACT relating to youthful offenders.

HB 476, by Representative Crimm: AN ACT relating to adult misdemeanant probation and work release agencies in urban-counties and consolidated local governments.

HB 477, by Representative J. Lee: AN ACT relating to the asset forfeiture funds.

HB 478, by Representative Riner: AN ACT relating to public safety.

HB 479, by Representative Riner: AN ACT relating to awards for students and teachers.

HB 480, by Representative Riner: AN ACT relating to the Kentucky educational excellence scholarships.

HR 131, by Representatives Damron and Comer: A RESOLUTION honoring the 2003-2004 state officers of the Kentucky FFA Association.

HJR 132, by Representative Nunn: A JOINT RESOLUTION authorizing and directing the establishment of a task force on medical practices relating to pain management.

HR 133, by Representative Hoffman: A RESOLUTION in honor of Kentucky's Career and Technical Education Student Organization Leadership Day.

HCR 134, by Representatives J. Adams and Gray: A CONCURRENT RESOLUTION directing the Program Review and Investigations Committee to study administrative costs in local school districts.

HJR 135, by Representative Riner: A JOINT RESOLUTION directing the Kentucky Higher Education Assistance Authority, with the assistance of the Council on Postsecondary Education and the Kentucky Department of Education, to conduct an analysis of data relating to specific elements of the Kentucky Educational Excellence Scholarship Program and report the results with policy options and recommendations for legislative action to the General Assembly.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Education: **HCR 120, 121, 122, 123, HB 81**

Health and Welfare: **HB 351, 115, 56**

Motions, Petitions, and Communications (Continued)

Representative Westrom moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Westrom moved that she be recorded as voting "yea" on **HB 11**. Agreed.

Representative Geveden moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Geveden moved that he be recorded as voting "yea" on **HB 359** and **90**. Agreed.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 404**, by Representative Burch:

HB 404, On page 1, by deleting lines 7 through 24, and by inserting in lieu thereof:

"(2) "Agricultural use" means the use of*:*

(a) A tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers, or ornamental plants, including provision for dwellings for persons and their families who are engaged in the [~~above~~]agricultural use on the tract, but not including residential building development for sale or lease to the public*;*

(b) [~~, and shall also include,~~]Regardless of the size of the tract of land used, small wineries licensed under KRS 243.155, and farm wineries licensed under the provisions of KRS 243.156;

(c) A tract of at least five (5) contiguous acres used for the following activities involving horses:

1. Riding lessons;

2. Rides;

3. Training;

4. Projects for educational purposes;

5. Boarding and related care; or

6. Shows, competitions, sporting events, and similar activities that are not regulated by KRS Chapter 230; or

(d) A tract of less than five (5) contiguous acres used for the following activities involving horses:

1. Riding lessons;

2. Rides;

3. Training;

4. Projects for educational purposes;

5. Boarding and related care; or

6. Shows, competitions, sporting events, and similar activities that are not regulated by KRS Chapter 230.

This paragraph shall only apply to acreage that was being used for these activities before the effective date of this Act;".

Floor Amendment No. 2 to the Committee Substitute to **HB 162**, by Representative Moberly:

HB 162, On page 1, line 11, by deleting "***and***"; and

On page 1, line 13, by deleting the "***.***" and inserting in lieu thereof "***; and***"; and

On page 1, by inserting the following between lines 13 and 14:

(f) "Forgivable loan agreement" means a loan agreement entered into between an agency and a borrower that establishes specific conditions, which, if satisfied by the borrower, allows the agency to forgive a portion or all of the loan."; and

On page 1, line 21, by deleting "***Unless otherwise provided by statute,***"; and

On page 1, line 22, after "***it***" by inserting "***unless that agency has entered into a forgivable loan agreement with a borrower, or unless otherwise provided by statute***".

Floor Amendment No. 2 to the Committee Substitute to **HB 372**, by Representative T. Thompson:

HB 372, On page 5, line 4, after "***shall***" by inserting "***upon request***"; and

On page 5, line 6, by deleting "***all designated***" and inserting in lieu thereof "***any***"; and

On page 5, line 9, by deleting "***limited***" and inserting in lieu thereof "***modified***"; and

On page 6, line 18, by deleting "***information requested***" and inserting in lieu thereof "***the information relating to its health benefit plan that has been requested***"; and

On page 7, line 15, by deleting "***information requested***" and inserting in lieu thereof "***the information relating to its health benefit plan that has been requested***"; and

On page 8, line 15, after "***small group,***" by inserting "***association, employer-organized association,***"; and

On page 10, line 11, by deleting "***enrolled or***"; and

On page 10, line 13, after "***plan***" by inserting "***and the individual has voluntarily waived the association group coverage pursuant to this chapter***"; and

On page 11, after line 18, by inserting:

"Section 9. This Act may be cited as the Small Business Health Insurance Relief Act of 2004.".

Floor Amendment No. 1 to **HB 85**, by Representative Burch:

HB 85, On page 1, line 20, after "for" by inserting "***three (3) years***" and by bracketing and striking through "one (1) year"; and

On page 2, line 16, by deleting "***two (2)***" and inserting "***three (3)***" in lieu thereof; and

On page 2, line 16, by deleting "***twenty-one (21)***" and inserting "***eighteen (18)***" in lieu thereof

On page 3, line 24, by deleting "***two (2)***" and inserting "***three (3)***" in lieu thereof; and

On page 3, line 24, by deleting "***twenty-one (21)***" and inserting "***eighteen (18)***" in lieu thereof.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 56, Representative Burch

HB 67, Representative Burch

HB 115, Representative Burch

HB 157, Representative Embry

HB 336, Representative S. Lee

HB 341, Representative Hoffman

HB 475, Representatives Wayne, Burch, and Crimm

Announcements

The following meetings were announced:

Committee on Labor and Industry, Tuesday, February 10, 2004, noon, Room 149

Committee on Seniors, Military Affairs and Public Safety, Tuesday, February 10, 2004, meeting canceled

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 2:00 p.m., Tuesday, February 10, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 2:00 p.m., Tuesday, February 10, 2004, was adopted by voice vote.

TUESDAY, FEBRUARY 10, 2004

TWENTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Pastor Ed Parker, Christian Church, Bedford, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of February 9, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Education: **HB 474, 479, 480, HCR 134, HJR 135, SB 92**

Health and Welfare: **HB 477, HJR 132, SB 103**

Judiciary: **HB 475, 476**

Labor and Industry: **SB 45**

Tourism Development and Energy: **SB 36**

Transportation: **HB 478**

House Floor: **HR 131, 133**

Report of Committees

The Committee on Local Government reported **HB 388**, with Committee Substitute attached thereto, **HB 406, HB 412, HB 413**, and **HB 427** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 388, AN ACT relating to land use.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.003 is amended to read as follows:

(1) The governing body of each city, county, urban-county, consolidated local government, and charter county, shall adopt, by ordinance, a code of ethics which shall apply to all elected officials of the city, county, urban-county, consolidated local government, or charter county, ***to members and employees of the local planning commission and board of zoning adjustment,*** and to appointed officials and employees of the city, county, urban-county, consolidated local government, or charter county government, or agencies created jointly, as specified in the code of ethics. The elected officials of a city, county, or consolidated local government to which a code of ethics shall apply include the mayor, county judge/executive, members of the governing body, county clerk, county attorney, sheriff, jailer, coroner, surveyor, and constable but do not include members of any school board. Agencies created jointly may include planning or administrative commissions or boards. Candidates for the local government elective offices specified in this subsection shall comply with the annual financial disclosure statement filing requirements contained in the code of ethics.

(2) Any city, county, or consolidated local government may enter into a memorandum of agreement or an interlocal agreement with one (1) or more other cities, counties, or consolidated local governments for joint adoption of a code of ethics which shall apply to all elected officials of the cities, counties, or consolidated local governments,~~[and]~~ to appointed officials and employees as specified by each of the cities, counties, or consolidated local governments which enters into the agreement***, and to the members and employees of joint planning commissions and their respective boards of zoning adjustment if there is a joint planning commission involving the local governments entering into the agreement***. Interlocal agreements shall be executed pursuant to the Interlocal Cooperation Act in KRS 65.210 to 65.300. The interlocal agreement or memorandum of agreement may provide for but shall not be limited to:

(a) The provision of administrative services relating to the implementation of a code of ethics;

(b) The creation of a regional ethics board which serves independently to provide advice to member governments and their officials and provides for the enforcement of locally adopted codes of ethics; and

(c) Contracting by a memorandum of agreement with an area development district for the provision of administrative services relating to the implementation of a code of ethics.

Candidates for the city, county, or consolidated local government elective offices specified in this subsection shall comply with the annual financial disclosure statement filing requirements contained in the code of ethics.

(3) Each code of ethics adopted as provided by subsection (1) or (2) of this section, or amended as provided by subsection (4) of this section, shall include but not be limited to provisions which set forth:

(a) Standards of conduct for elected and appointed officials and employees;

(b) Requirements for creation of financial disclosure statements, which shall be filed annually by all candidates for the city, county, or consolidated local government elective offices specified in subsection (1) of this section, elected officials of each city, county, or consolidated local government, ***planning commission members and board of zoning adjustment members,*** and other officials or employees of the city, county, or consolidated local government, as specified in the code of ethics, and which shall be filed with the person or group responsible for enforcement of the code of ethics, provided that nonpaid members of jointly created agencies may be exempted from filing financial disclosure statements;

(c) A policy on the employment of members of the families of officials or employees of the city, county, or consolidated local government, as specified in the code of ethics;

(d) The designation of a person or group who shall be responsible for enforcement of the code of ethics, including maintenance of financial disclosure statements, all of which shall be available for public inspection, receipt of complaints alleging possible violations of the code of ethics, issuance of opinions in response to inquiries relating to the code of ethics, investigation of possible violations of the code of ethics, and imposition of penalties provided in the code of ethics.

(4) The code of ethics ordinance adopted by a city, county, or consolidated local government may be amended but shall not be repealed.

(5) (a) Within twenty-one (21) days of the adoption of the code of ethics required by this section, each city, county, or consolidated local government shall deliver a copy of the ordinance by which the code was adopted and proof of publication in accordance with KRS Chapter 424 to the Department for Local Government. The department shall maintain the ordinances as public records and shall maintain a list of city, county, or consolidated local governments which have adopted a code of ethics and a list of those which have not adopted a code of ethics.

(b) Within twenty-one (21) days of the amendment of a code of ethics required by this section, each city, county, or consolidated local government shall deliver a copy of the ordinance by which the code was amended and proof of publication in accordance with KRS Chapter 424 to the Department for Local Government, which shall maintain the amendment with the ordinance by which the code was adopted.

(c) For ordinances adopting or amending a code of ethics under this section, cities of the first class and consolidated local governments shall comply with the publication requirements of KRS 83A.060(9), notwithstanding the exception contained in that statute.

(6) If a city, county, or consolidated local government fails to comply with the requirements of this section, the Department for Local Government shall notify all state agencies, including area development districts, which deliver services or payments of money from the Commonwealth to the city, county, or consolidated local government. Those agencies shall suspend delivery of all services or payments to the city, county, or consolidated local government which fails to comply with the requirements of this section. The Department for Local Government shall immediately notify those same agencies when the city, county, or consolidated local government is in compliance with the requirements of this section, and those agencies shall reinstate the delivery of services or payments to the city, county, or consolidated local government.

(7) (a) In a joint planning unit, all participating local governments shall adopt identical ethical standards in their codes of ethics for the planning commission members.

(b) In a joint planning unit, all participating local governments shall adopt identical ethical standards in their codes of ethics for the boards of zoning adjustment members.

(c) In a joint planning unit, all participating local governments shall adopt identical ethical standards in their codes of ethics for the employees of the planning commission.

(d) In a joint planning unit, all participating local governments shall adopt identical ethical standards in their codes of ethics for the employees of the boards of zoning adjustment.

Section 2. KRS 100.167 is amended to read as follows:

The planning commission shall adopt bylaws for the transaction of business, and shall keep minutes and records of all proceedings, including regulations, transactions, findings, and determinations, and the number of votes for and against each question ***including a record of each member's vote***, and if any member is absent or disqualifies from voting, indicating the fact, all of which shall, immediately after adoption, be filed in the office of the commission or board, as applicable. If the commission has no office, such records shall be filed in the office of the county clerk. A transcript of the entire proceedings of a planning commission shall be provided if requested by a party, at the expense of the requesting party, and the transcript shall constitute the record.

Section 3. KRS 147A.027 is amended to read as follows:

(1) (a) Each planning commissioner and board of adjustment member of a planning unit shall, within one (1) year prior to appointment, or within one hundred twenty (120) days of appointment, ***or within one hundred twenty (120) days after the effective date of this Act, if the planning commissioner or board of adjustment member is already in office and has not already satisfied the requirements of this paragraph,*** attend a minimum of ***six (6)***[~~four (4)~~] hours of orientation training in one (1) or more of the subjects listed in subsection (4) of this section.

(b) Each planning professional, zoning administrator, and administrative official, and each planning professional's deputies and assistants, shall, within one (1) year prior to being employed, or within one hundred twenty (120) days of employment, ***or within one hundred twenty (120) days after the effective date of this Act, if the individual is already employed and has not already satisfied the requirements of this paragraph,*** attend a minimum of ***twelve (12)***[~~eight (8)~~] hours of orientation training in one (1) or more of the subjects listed in subsection (4) of this section.

(c) Each of the individuals listed in paragraphs (a) and (b) of this subsection shall certify his or her attendance by a written statement filed with the secretary of his or her respective planning commission within one hundred forty (140) days of appointment or employment. Each statement shall identify the date of each program attended, its subject matter, location, sponsors, and the time spent in each program.

(2) (a) Each planning commissioner and board of adjustment member of a planning unit shall, within each period of two (2) consecutive calendar years, starting at the date of the individual's appointment, attend no less than ***twelve (12)***[~~eight (8)~~] hours of continuing education in any of the subjects listed in subsection (4) of this section.

(b) Each planning professional, zoning administrator, and administrative official, and each planning professional's deputies and assistants, shall, within each period of two (2) consecutive calendar years, starting at the date of the individual's appointment, attend no less than ***twenty-four (24)***[~~sixteen (16)~~] hours of continuing education in any of the subjects listed in subsection (4) of this section.

(c) Each of the individuals listed in paragraphs (a) and (b) of this subsection shall certify his or her attendance by a written statement filed with the secretary of his or her respective planning commission by December 31 of each calendar year. Each statement shall identify the date of each program attended, its subject matter, location, sponsors, and the time spent in each program.

(3) The planning commission or the legislative body of the city, county, urban-county, charter county government, or consolidated local government in which the planning commission has jurisdiction or, in the case of a joint planning unit, has representation in, shall be responsible for providing training as required by subsections (1) and (2) of this section or for providing funding to each planning commissioner, board of adjustment member, full-time planning professional, zoning administrator, administrative official, and planning professional's deputies or assistants so that each individual may obtain training as required by subsections (1) and (2) of this section from other sources.

(4) The subjects for the education required by subsections (1) and (2) of this section shall include, but not be limited to, the following: land use planning; zoning; floodplains; transportation; community facilities; ethics; public utilities; wireless telecommunications facilities; parliamentary procedure; public hearing procedure; administrative law; economic development; housing; public buildings; building construction; land subdivision; and powers and duties of the board of adjustment. Other topics reasonably related to the duties of planning officials or planning professionals may be approved by majority vote of the planning commission prior to December 31 of the year for which credit is sought.

(5) Each local planning commission shall keep in its official public records originals of all statements and the written documentation of attendance required in subsection (6) of this section filed with the secretary of the planning commission pursuant to subsections (1)(c) and (2)(c) of this section for three (3) years after the calendar year in which each statement and appurtenant written documentation is filed.

(6) Each planning commissioner, board of adjustment member, full-time planning professional, zoning administrator, administrative official, and planning professional's deputies or assistants shall be responsible for obtaining written documentation signed by a representative of the sponsor of any continuing education course for which credit is claimed, acknowledging the fact that the individual attended the program for which credit is claimed. That documentation shall be filed with the secretary of the planning commission as attachments to the statements required by subsections (1)(c) and (2)(c) of this section.

(7) If a planning commissioner or board of adjustment member fails to:

(a) Complete the requisite number of hours of orientation training and continuing education within the time allotted under subsections (1) and (2) of this section;

(b) File the statement required by subsections (1)(c) and (2)(c) of this section; or

(c) File the documentation required by subsection (6) of this section;

the planning commissioner shall be subject to removal from office according to the provisions of KRS 100.157, and the board of adjustment member shall be subject to removal according to the provisions of KRS 100.217.

(8) No city, county, urban-county, charter county, consolidated local government, planning commission, board of adjustment, or any entity performing local planning under KRS Chapter 100, shall employ a planning professional, zoning administrator, administrative official, or a planning professional's deputy or assistant, who fails to complete the requisite number of hours of orientation and continuing education required by subsections (1) and (2) of this section in the capacity of a planning professional, zoning administrator, administrative official, or planning professional's deputy or assistant.

Section 4. KRS 100.183 is amended to read as follows:

(1) The planning commission of each unit***, in consultation with the individuals listed in subsection (2) of this section,*** shall prepare a comprehensive plan, which shall serve as a guide for public and private actions and decisions to assure the development of public and private property in the most appropriate relationships. The elements of the plan may be expressed in words, graphics, or other appropriate forms. They shall be interrelated, and each element shall describe how it relates to each of the other elements.

(2) (a) Except in counties containing a consolidated local government, the chief executive officer of each local government under the jurisdiction of an independent planning unit, and each chief executive officer of each local government under the jurisdiction of a joint planning unit acting jointly, shall appoint, at a minimum, the following individuals listed in this paragraph to consult with the planning commissioners in preparing and updating the comprehensive plan:

1. One (1) representative of each public or private gas, water, sewer, electric, telephone, and wireless telecommunications utility serving the planning unit;

2. One (1) representative of each school district in the planning unit;

3. One (1) representative of each chamber of commerce within the planning unit nominated from a list of three (3) submitted by each chamber of commerce;

4. One (1) representative of each special taxing district within the planning unit.

(b) In counties containing consolidated local governments, the appointments of the individuals listed in paragraph (a) of this subsection shall be made by the mayor of the consolidated local government.

(c) The individuals shall receive no compensation, but shall be reimbursed for actual and necessary expenses incurred in the course of their duties.

(d) The individuals' term of appointment shall end upon the adoption, amendment, or readoption of the comprehensive plan. An individual may be removed by the appointing executive authority for inefficiency, neglect of duty, malfeasance, or conflict of interest. If the individual was appointed by joint action, then the individual's removal shall be by joint action. Vacancies shall be filled within thirty (30) days of the vacancy in the same manner as the original appointment.

(e) The individuals shall be appointed each time the comprehensive plan is reviewed under the provisions of Section 8 of this Act. An individual may be reappointed to serve upon successive reviews of the comprehensive plan.

Section 5. KRS 100.187 is amended to read as follows:

The comprehensive plan shall contain, as a minimum, the following elements:

(1) A statement of goals and objectives, which shall serve as a guide for the physical development and economic and social well-being of the planning unit;

(2) A land use plan element, which shall show proposals for the most appropriate, economic, desirable, and feasible patterns for the general location, character, extent, and interrelationship of the manner in which the community should use its public and private land at specified times as far into the future as is reasonable to foresee***, but at least twenty (20) years into the future from the date of adoption, amendment, or readoption of the comprehensive plan***. Such land uses may cover, without being limited to, public and private, residential, commercial, industrial, agricultural, and recreational land uses;

(3) A transportation plan element, which shall show proposals for the most desirable, appropriate, economic, and feasible pattern for the general location, character, and extent of the channels, routes, and terminals for transportation facilities for the circulation of persons and goods for specified times as far into the future as is reasonable to foresee***, but at least twenty (20) years into the future from the date of adoption, amendment, or readoption of the comprehensive plan***. The channels, routes, and terminals may include, without being limited to, all classes of highways or streets, railways, airways, waterways; routings for mass transit trucks, etc.; and terminals for people, goods, or vehicles related to highways, airways, waterways, and railways;

(4) A community facilities plan element which shall show proposals for the most desirable, appropriate, economic, and feasible pattern for the general location, character, and the extent of public and semipublic buildings, land, and facilities for specified times as far into the future as is reasonable to foresee***, but at least twenty (20) years into the future from the date of adoption, amendment, or readoption of the comprehensive plan***. The facilities may include, without being limited to, parks and recreation, schools and other educational or cultural facilities, libraries, churches, hospitals, social

welfare and medical facilities, utilities, fire stations, police stations, jails, or other public office or administrative facilities;

(5) (a) Provisions for the accommodation of all military installations greater than or equal in area to three hundred (300) acres that are:

1. Contained wholly or partially within the planning unit's boundaries;
2. Abutting the planning unit's boundaries; or
3. Contained within or abutting any county that contains a planning unit.

(b) The goal of providing for the accommodation of these military installations shall be to minimize conflicts between the relevant military installations and the planning unit's residential population. These provisions shall be made after consultation with the relevant installation's command authorities to determine the needs of the relevant military installation. These consultations shall include but not be limited to questions of installation expansion, environmental impact, issues of installation safety, and issues relating to air space usage, to include noise pollution, air pollution, and air safety concerns; and

(6) The comprehensive plan may include any additional elements such as, without being limited to, community renewal, housing, flood control, pollution, conservation, natural resources, regional impact, historic preservation, and other programs which in the judgment of the planning commission will further serve the purposes of the comprehensive plan.

Section 6. KRS 100.191 is amended to read as follows:

All elements of the comprehensive plan shall be based upon but not limited to, the following research, analysis, and projections:

(1) An analysis of the general distribution and characteristics of past and present population and a forecast of the extent and character of future population as far into the future as is reasonable to foresee***, but at least twenty (20) years into the future from the date of adoption, amendment, or readoption of the comprehensive plan***;

(2) An economic survey and analysis of the major existing public and private business activities, and a forecast of future economic levels, including a forecast of anticipated necessary actions by the community to increase the quality of life of its current and future population through the encouragement of economic development as far into the future as is reasonable to foresee***, but at least twenty (20) years into the future from the date of adoption, amendment, or readoption of the comprehensive plan***;

(3) Research and analysis as to the nature, extent, adequacy, and the needs of the community for the existing land and building use, transportation, and community facilities in terms of their general location, character and extent, including, the identification and mapping of agricultural lands of statewide importance and analysis of the impacts of community land use needs on these lands; and

(4) Additional background information for the elements of the comprehensive plan may include any other research analysis, and projections which, in the judgment of the planning commission, will further serve the purposes of the comprehensive plan. ***Any other research analysis and projections shall, where practical, anticipate conditions at least twenty (20) years into the future from the date of adoption, amendment, or readoption of the comprehensive plan.***

Section 7. KRS 100.193 is amended to read as follows:

(1) The planning commission of each planning unit shall prepare and adopt the statement of goals and objectives to act as a guide for the preparation of the remaining elements and the aids to implementing the plans. The statement shall be presented for consideration, amendment, and adoption by each legislative body and fiscal court in the planning unit. Each legislative body and fiscal court in the planning unit may develop goals and objectives for the area within its jurisdiction which the planning commission shall consider when preparing or amending the comprehensive plan. During its preparation and that of the other plan elements, it shall be the duty of the planning commission to consult with ***any*** public officials and agencies, boards of health, school boards, public and private utility companies, civic, educational, professional, and other organizations, and~~[with]~~ citizens ***in addition to the representatives listed in Section 4 of this Act***.

(2) During the preparation of the statement of goals and objectives, and at least fourteen (14) days prior to any public hearing on the adoption, amendment, or readoption of any element of the comprehensive plan, the planning commission shall give notice of the preparation of the statement or the hearing to the following public officials in each city and county adjacent to the planning unit:

(a) If the adjacent city or county is part of a planning unit, the notice shall be sent to the planning commission of that unit; or

(b) If the adjacent city or county is not part of a planning unit, the notice shall be sent to the chief executive officer of that city or county government.

(3) The notice required in subsection (2) of this section, and a copy of the proposed comprehensive plan element, shall also be given to the regional planning council for the area in which the planning unit is located. The council shall coordinate the review and comments of local governments and planning commissions serving planning units affected by the proposal and make recommendations designed to promote coordinated land use in the regional planning council's area of jurisdiction.

(4) Any planning commission which is adopting, amending, or readopting any element of the comprehensive plan may conduct a hearing to receive testimony from adjacent planning units, city or county governments, or the regional planning council of the affected area.

Section 8. KRS 100.197 is amended to read as follows:

(1) All elements of the comprehensive plan shall be prepared with a view towards carrying out the statement of goals and objectives. The various elements may be adopted as they are completed, or as a whole when all have been completed. The planning commission shall hold a public hearing and adopt the elements. The comprehensive plan elements, and their research basis, shall be reviewed from time to time in light of social, economic, technical, and physical advancements or changes. At least once every five (5) years, the commission ***in consultation with the individuals listed in Section 4 of this Act*** shall amend or readopt the plan elements. It shall not be necessary to conduct a comprehensive review of the research done at the time of the original adoption pursuant to KRS 100.191, when the commission finds that the original research is still valid. The amendment or readoption shall occur only after a public hearing before the planning commission.

(2) The elements of the comprehensive plan shall be reviewed by the planning commission ***in consultation with the individuals listed in Section 4 of this Act*** at least once every five (5) years and amended if necessary. If the goals and objectives statement is proposed to be amended then the proposed amendments shall be submitted to the legislative bodies and fiscal courts in the planning unit for consideration, amendment, and adoption. If the goals and objectives statement is not proposed to be amended, it shall not be necessary to submit it to the legislative bodies and fiscal courts for action. If the review is not performed, any property owner in the planning unit may file suit in the Circuit Court. If the Circuit Court finds that the review has not been performed, it shall order the planning commission, or the legislative body in the case of the statement of goals and objectives element, to perform the review, and it may set a schedule or deadline of not less than nine (9) months for the completion of the review. No comprehensive plan shall be declared invalid by the Circuit Court unless the planning commission fails to perform the review according to the court's schedule or deadline. The procedure set forth in this section shall be the exclusive remedy for failure to perform the review.

(3) Within thirty (30) days after its adoption, amendment, or readoption by the planning commission, a copy of each element of the comprehensive plan shall be sent to public officials in adjacent cities, counties, and planning units, following the procedures provided in subsection (2) of KRS 100.193.

The Committee Substitute to **HB 388** is as follows:

HB 388, AN ACT relating to land use.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.003 is amended to read as follows:

(1) The governing body of each city, county, urban-county, consolidated local government, and charter county, shall adopt, by ordinance, a code of ethics which shall apply to all elected officials of the city, county, urban-county, consolidated local government, or charter county, ***to members and employees of the local planning commission and board of zoning adjustment,*** and to appointed officials and employees of the city, county, urban-county, consolidated local government, or charter county government, or agencies created jointly, as specified in the code of ethics. The elected officials of a city, county, or consolidated local government to which a code of ethics shall apply include the mayor, county judge/executive, members of the governing body, county clerk, county attorney, sheriff, jailer, coroner, surveyor, and constable but do not include members of any school board. Agencies created jointly may include planning or administrative commissions or boards. Candidates for the local government elective offices specified in this subsection shall comply with the annual financial disclosure statement filing requirements contained in the code of ethics.

(2) Any city, county, or consolidated local government may enter into a memorandum of agreement or an interlocal agreement with one (1) or more other cities, counties, or consolidated local governments for joint adoption of a code of ethics which shall apply to all elected officials of the cities, counties, or consolidated local governments,~~[and]~~ to appointed officials and employees as specified by each of the cities, counties, or consolidated local governments which enters into the agreement, ***and to the members and employees of joint planning commissions and their respective boards of zoning adjustment if there is a joint planning commission involving the local governments entering into the agreement***. Interlocal agreements shall be executed pursuant to the Interlocal Cooperation Act in KRS 65.210 to 65.300. The interlocal agreement or memorandum of agreement may provide for but shall not be limited to:

(a) The provision of administrative services relating to the implementation of a code of ethics;

(b) The creation of a regional ethics board which serves independently to provide advice to member governments and their officials and provides for the enforcement of locally adopted codes of ethics; and

(c) Contracting by a memorandum of agreement with an area development district for the provision of administrative services relating to the implementation of a code of ethics.

Candidates for the city, county, or consolidated local government elective offices specified in this subsection shall comply with the annual financial disclosure statement filing requirements contained in the code of ethics.

(3) Each code of ethics adopted as provided by subsection (1) or (2) of this section, or amended as provided by subsection (4) of this section, shall include but not be limited to provisions which set forth:

(a) Standards of conduct for elected and appointed officials and employees;

(b) Requirements for creation of financial disclosure statements, which shall be filed annually by all candidates for the city, county, or consolidated local government elective offices specified in subsection (1) of this section, elected officials of each city, county, or consolidated local government, and other officials or employees of the city, county, or consolidated local government, as specified in the code of ethics, and which shall be filed with the person or group responsible for enforcement of the code of ethics, provided that nonpaid members of jointly created agencies may be exempted from filing financial disclosure statements*, and planning commission members and board of zoning adjustment members shall not be required to file financial disclosure statements*;

(c) A policy on the employment of members of the families of officials or employees of the city, county, or consolidated local government, as specified in the code of ethics;

(d) The designation of a person or group who shall be responsible for enforcement of the code of ethics, including maintenance of financial disclosure statements, all of which shall be available for public inspection, receipt of complaints alleging possible violations of the code of ethics, issuance of opinions in response to inquiries relating to the code of ethics, investigation of possible violations of the code of ethics, and imposition of penalties provided in the code of ethics.

(4) The code of ethics ordinance adopted by a city, county, or consolidated local government may be amended but shall not be repealed.

(5) (a) Within twenty-one (21) days of the adoption of the code of ethics required by this section, each city, county, or consolidated local government shall deliver a copy of the ordinance by which the code was adopted and proof of publication in accordance with KRS Chapter 424 to the Department for Local Government. The department shall maintain the ordinances as public records and shall maintain a list of city, county, or consolidated local governments which have adopted a code of ethics and a list of those which have not adopted a code of ethics.

(b) Within twenty-one (21) days of the amendment of a code of ethics required by this section, each city, county, or consolidated local government shall deliver a copy of the ordinance by which the code was amended and proof of publication in accordance with KRS Chapter 424 to the Department for Local Government, which shall maintain the amendment with the ordinance by which the code was adopted.

(c) For ordinances adopting or amending a code of ethics under this section, cities of the first class and consolidated local governments shall comply with the publication requirements of KRS 83A.060(9), notwithstanding the exception contained in that statute.

(6) If a city, county, or consolidated local government fails to comply with the requirements of this section, the Department for Local Government shall notify all state agencies, including area development districts, which deliver services or payments of money from the Commonwealth to the city, county, or consolidated local government. Those agencies shall suspend delivery of all services or payments to the city, county, or consolidated local government which fails to comply with the requirements of this section. The Department for Local Government shall immediately notify those same agencies when the city, county, or consolidated local government is in compliance with the requirements of this section, and those agencies shall reinstate the delivery of services or payments to the city, county, or consolidated local government.

(7) (a) In a joint planning unit, all participating local governments shall adopt identical ethical standards in their codes of ethics for the planning commission members.

(b) In a joint planning unit, all participating local governments shall adopt identical ethical standards in their codes of ethics for the boards of zoning adjustment members.

(c) In a joint planning unit, all participating local governments shall adopt identical ethical standards in their codes of ethics for the employees of the planning commission.

(d) In a joint planning unit, all participating local governments shall adopt identical ethical standards in their codes of ethics for the employees of the boards of zoning adjustment.

Section 2. KRS 100.167 is amended to read as follows:

The planning commission shall adopt bylaws for the transaction of business, and shall keep minutes and records of all proceedings, including regulations, transactions, findings, and determinations, and the number of votes for and against each question *including a record of each member's vote*, and if any member is absent or disqualifies from voting, indicating the fact, all of which shall, immediately after adoption, be filed in the office of the commission or board, as applicable. If the commission has no office, such records shall be filed in the office of the county clerk. A transcript of the entire proceedings of a planning commission shall be provided if requested by a party, at the expense of the requesting party, and the transcript shall constitute the record.

Section 3. KRS 100.183 is amended to read as follows:

(1) The planning commission of each unit shall prepare a comprehensive plan, which shall serve as a guide for public and private actions and decisions to assure the development of public and private property in the most appropriate relationships. The elements of the plan may be expressed in words, graphics, or other appropriate forms. They shall be interrelated, and each element shall describe how it relates to each of the other elements.

(2) As part of the preparation of the initial comprehensive plan, or as part of a comprehensive plan update under Section 7 of this Act, the planning commission shall contact and consult with, at a minimum, the following entities in the planning unit to help coordinate and plan land uses within the planning unit's jurisdiction:

(a) Public and private gas, water, sewer, electric, telephone, and wireless telecommunications utilities;

(b) Public school districts;

(c) Chambers of commerce;

(d) Special taxing districts;

(e) Agricultural organizations;

(f) City and county governments;

(g) Area development districts;

(h) Neighborhood, historic preservation, conservation, and homebuilding organizations; and

(i) Other entities that, in the opinion of the planning commission, are necessary with which to consult to ensure an efficient and coordinated comprehensive plan.

(3) The planning commission shall document the consultation with the entities listed in this section in the initial comprehensive plan or the comprehensive plan update.

Section 4. KRS 100.187 is amended to read as follows:

The comprehensive plan shall contain, as a minimum, the following elements:

(1) A statement of goals and objectives, which shall serve as a guide for the physical development and economic and social well-being of the planning unit;

(2) A land use plan element, which shall show proposals for the most appropriate, economic, desirable, and feasible patterns for the general location, character, extent, and interrelationship of the manner in which the community should use its public and private land at specified times as far into the future as is reasonable to foresee***, but at least twenty (20) years into the future from the date of adoption, amendment, or readoption of the comprehensive plan***. Such land uses may cover, without being limited to, public and private, residential, commercial, industrial, agricultural, and recreational land uses;

(3) A transportation plan element, which shall show proposals for the most desirable, appropriate, economic, and feasible pattern for the general location, character, and extent of the channels, routes, and terminals for transportation facilities for the circulation of persons and goods for specified times as far into the future as is reasonable to foresee***, but at least twenty (20) years into the future from the date of adoption, amendment, or readoption of the comprehensive plan***. The channels, routes, and terminals may include, without being limited to, all classes of highways or streets, railways, airways, waterways; routings for mass transit trucks, etc.; and terminals for people, goods, or vehicles related to highways, airways, waterways, and railways;

(4) A community facilities plan element which shall show proposals for the most desirable, appropriate, economic, and feasible pattern for the general location, character, and the extent of public and semipublic buildings, land, and facilities for specified times as far into the future as is reasonable to foresee***, but at least twenty (20) years into the future from the date of adoption, amendment, or readoption of the comprehensive plan***. The facilities may include, without being limited to, parks and recreation, schools and other educational or cultural facilities, libraries, churches, hospitals, social welfare and medical facilities, utilities, fire stations, police stations, jails, or other public office or administrative facilities;

(5) (a) Provisions for the accommodation of all military installations greater than or equal in area to three hundred (300) acres that are:

1. Contained wholly or partially within the planning unit's boundaries;
2. Abutting the planning unit's boundaries; or
3. Contained within or abutting any county that contains a planning unit.

(b) The goal of providing for the accommodation of these military installations shall be to minimize conflicts between the relevant military installations and the planning unit's residential population. These provisions shall be made after consultation with the relevant installation's command authorities to determine the needs of the relevant military installation. These consultations shall include but not be limited to questions of installation expansion, environmental impact, issues of installation safety, and issues relating to air space usage, to include noise pollution, air pollution, and air safety concerns; and

(6) The comprehensive plan may include any additional elements such as, without being limited to, community renewal, housing, flood control, pollution, conservation, natural resources, regional impact, historic preservation, and other programs which in the judgment of the planning commission will further serve the purposes of the comprehensive plan.

Section 5. KRS 100.191 is amended to read as follows:

All elements of the comprehensive plan shall be based upon but not limited to, the following research, analysis, and projections:

(1) An analysis of the general distribution and characteristics of past and present population and a forecast of the extent and character of future population as far into the future as is reasonable to foresee***, but at least twenty (20) years into the future from the date of adoption, amendment, or readoption of the comprehensive plan***;

(2) An economic survey and analysis of the major existing public and private business activities, and a forecast of future

economic levels, including a forecast of anticipated necessary actions by the community to increase the quality of life of its current and future population through the encouragement of economic development as far into the future as is reasonable to foresee***, but at least twenty (20) years into the future from the date of adoption, amendment, or readoption of the comprehensive plan***;

(3) Research and analysis as to the nature, extent, adequacy, and the needs of the community for the existing land and building use, transportation, and community facilities in terms of their general location, character and extent, including, the identification and mapping of agricultural lands of statewide importance and analysis of the impacts of community land use needs on these lands; and

(4) Additional background information for the elements of the comprehensive plan may include any other research analysis, and projections which, in the judgment of the planning commission, will further serve the purposes of the comprehensive plan. ***Any other research analysis and projections shall, where practical, anticipate conditions at least twenty (20) years into the future from the date of adoption, amendment, or readoption of the comprehensive plan.***

Section 6. KRS 100.193 is amended to read as follows:

(1) The planning commission of each planning unit shall prepare and adopt the statement of goals and objectives to act as a guide for the preparation of the remaining elements and the aids to implementing the plans. The statement shall be presented for consideration, amendment, and adoption by each legislative body and fiscal court in the planning unit. Each legislative body and fiscal court in the planning unit may develop goals and objectives for the area within its jurisdiction which the planning commission shall consider when preparing or amending the comprehensive plan. During its preparation and that of the other plan elements, it shall be the duty of the planning commission to consult with ***any*** public officials and agencies, boards of health, school boards, public and private utility companies, civic, educational, professional, and other organizations, and[~~with~~] citizens ***in addition to the entities listed in Section 3 of this Act***.

(2) During the preparation of the statement of goals and objectives, and at least fourteen (14) days prior to any public hearing on the adoption, amendment, or readoption of any element of the comprehensive plan, the planning commission shall give notice of the preparation of the statement or the hearing to the following public officials in each city and county adjacent to the planning unit:

(a) If the adjacent city or county is part of a planning unit, the notice shall be sent to the planning commission of that unit; or

(b) If the adjacent city or county is not part of a planning unit, the notice shall be sent to the chief executive officer of that city or county government.

(3) The notice required in subsection (2) of this section, and a copy of the proposed comprehensive plan element, shall also be given to the regional planning council for the area in which the planning unit is located. The council shall coordinate the review and comments of local governments and planning commissions serving planning units affected by the proposal and make recommendations designed to promote coordinated land use in the regional planning council's area of jurisdiction.

(4) Any planning commission which is adopting, amending, or readopting any element of the comprehensive plan may conduct a hearing to receive testimony from adjacent planning units, city or county governments, or the regional planning council of the affected area.

Section 7. KRS 100.197 is amended to read as follows:

(1) All elements of the comprehensive plan shall be prepared with a view towards carrying out the statement of goals and objectives. The various elements may be adopted as they are completed, or as a whole when all have been completed. The planning commission shall hold a public hearing and adopt the elements. The comprehensive plan elements, and their research basis, shall be reviewed from time to time in light of social, economic, technical, and physical advancements or changes. At least once every five (5) years, the commission ***in consultation with the entities listed in Section 3 of this Act*** shall amend or readopt the plan elements. It shall not be necessary to conduct a comprehensive review of the research done at the time of the original adoption pursuant to KRS 100.191, when the commission finds that the original research is still valid. The amendment or readoption shall occur only after a public hearing before the planning commission.

(2) The elements of the comprehensive plan shall be reviewed by the planning commission ***in consultation with the entities listed in Section 3 of this Act*** at least once every five (5) years and amended if necessary. If the goals and objectives statement is proposed to be amended then the proposed amendments shall be submitted to the legislative bodies and fiscal courts in the planning unit for consideration, amendment, and adoption. If the goals and objectives statement is not proposed to be amended, it shall not be necessary to submit it to the legislative bodies and fiscal courts for action. If the review is not performed, any property owner in the planning unit may file suit in the Circuit Court. If the Circuit Court finds that the review has not been performed, it shall order the planning commission, or the legislative body in the case of the statement of goals and objectives element, to perform the review, and it may set a schedule or deadline of not less than nine (9) months for the completion of the review. No comprehensive plan shall be declared invalid by the Circuit Court unless the planning commission fails to perform the review according to the court's schedule or deadline. The procedure set forth in this section shall be the exclusive remedy for failure to perform the review.

(3) Within thirty (30) days after its adoption, amendment, or readoption by the planning commission, a copy of each element of the comprehensive plan shall be sent to public officials in adjacent cities, counties, and planning units, following the procedures provided in subsection (2) of KRS 100.193.

HB 406, AN ACT relating to fire protection districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 75.040 is amended to read as follows:

(1) *(a)* Upon the creation of a fire protection district or a volunteer fire department district as provided in KRS 75.010 to 75.031, the trustees of a district are authorized to establish and operate a fire department and emergency ambulance service as provided in subsection (6) of this section and to levy a tax upon the property in the district, including that property within cities in a fire protection district or a volunteer fire department district, as provided by KRS 75.010(2) provided that the property is subject to county tax, and not exceeding ten cents ($0.10) per one hundred dollars ($100) of valuation as assessed for county taxes, for the purpose of defraying the expenses of the establishment, maintenance, and operation of the fire department or to make contracts for fire protection for the districts as provided in KRS 75.050. The rate set in this subsection shall apply, notwithstanding the provisions of KRS 132.023.

(b) A fire protection district or a volunteer fire department district that establishes and operates an emergency ambulance service and is the primary service provider in the district may levy a tax upon the property in the district not to exceed twenty cents ($0.20) per one hundred dollars ($100) of valuation as assessed for county taxes, for the purpose of defraying the expenses of the establishment, maintenance, and operation of the fire department and emergency ambulance service or to make contracts for fire protection for the districts as provided in KRS 75.050. The rate set in this subsection shall apply, notwithstanding the provisions of KRS 132.023.

(2) The establishment, maintenance, and operation of a fire protection district or volunteer fire department district shall include, but not be limited to, the following activities:

(a) Acquisition and maintenance of adequate fire protection facilities;

(b) Acquisition and maintenance of adequate firefighting equipment;

(c) Recruitment, training, and supervision of firefighters;

(d) Control and extinguishment of fires;

(e) Prevention of fires;

(f) Conducting fire safety activities;

(g) Payment of compensation to firefighters and providing the necessary support and supervisory personnel;

(h) Payment for reasonable benefits or a nominal fee to volunteer firefighters when benefits and fees do not constitute wages or salaries under KRS Chapter 337 and are not taxable as income to the volunteer firefighters under Kentucky or federal income tax laws; and

(i) The use of fire protection district equipment for activities which are for a public purpose and which do not materially diminish the value of the equipment.

(3) The property valuation administrator of the county or counties involved, with the cooperation of the board of trustees, shall note on the tax rolls the taxpayers and valuation of the property subject to such assessment. The county clerk shall compute the tax on the regular state and county tax bills in such manner as may be directed by regulation of the revenue cabinet.

(4) Such taxes shall be subject to the same delinquency date, discounts, penalties, and interest as are applied to the collection of ad valorem taxes and shall be collected by the sheriff of the county or counties involved and accounted for to the treasurer of the district. The sheriff shall be entitled to a fee of one percent (1%) of the amount collected by him.

(5) Nothing contained in this subsection shall be construed to prevent the trustees of a fire protection district located in a city or county which provides emergency ambulance service from using funds derived from taxes for the purpose of providing supplemental emergency medical services so long as the mayor of the city or the county judge/executive of the county, as appropriate, certifies to the trustees in writing that supplemental emergency medical services are reasonably required in the public interest. For the purposes of this subsection, "supplemental emergency medical services" may include EMT, EMT-D, and paramedic services rendered at the scene of an emergent accident or illness until an emergency ambulance can arrive at the scene.

(6) The trustees of those fire protection districts or volunteer fire department districts whose districts or portions thereof do not receive emergency ambulance services from an emergency ambulance service district or, whose districts are not being served by an emergency ambulance service operated or contracted by a city or county government, may develop, maintain, and operate or contract for an emergency ambulance service as part of any fire department created pursuant to this chapter. No taxes levied pursuant to subsection (1) of this section shall be used to develop, maintain, operate, or contract for an emergency ambulance service until the tax year following the year the trustees of the district authorize the establishment of

the emergency ambulance service.

Section 2. KRS 75.015 is amended to read as follows:

(1) A fire protection subdistrict may be formed according to the provisions of this section. A fire protection subdistrict shall:

(a) Be located within the territorial limits of a fire protection district or volunteer fire department district;

(b) Have a continuous boundary; and

(c) Be managed by the board of trustees of the district, which shall:

1. Impose an ad valorem tax on property in the subdistrict in addition to the ad valorem tax the board imposes on property in the district as a whole; and

2. Expend the revenue from that additional tax on improved fire protection facilities and services for the subdistrict.

(2) Persons desiring to form a fire protection subdistrict shall present a petition to the fiscal court clerk and to each member of the fiscal court. The petition shall be accompanied by a map and a metes and bounds description or other description which specifically identifies the boundaries of the proposed subdistrict. The petition shall be signed by more than sixty percent (60%) of the persons who both:

(a) Live within the proposed subdistrict; and

(b) Own property that is located within the proposed subdistrict and is subject to taxation by the district under KRS 75.040.

(3) The petition shall contain the name and address of each petitioner and the address of each petitioner's property that is located within the proposed subdistrict. It shall be in substantially the following form: "The following owners of property located within (insert the name of the fire protection district or volunteer fire department district) hereby petition the fiscal court to form a fire protection subdistrict located at (insert a brief description of the location of the proposed subdistrict). The board of trustees of (insert the name of the fire protection district or volunteer fire department district) shall have the authority to impose a special ad valorem tax of (insert amount, not to exceed the maximum allowed under subsection (6) of this section) on each one hundred dollars ($100) worth of property assessed for local taxation in the subdistrict, in order to provide enhanced fire protection for the subdistrict. This tax shall be in addition to the ad valorem tax imposed by the trustees on the district as a whole."

(4) Upon receipt of the petition, the fiscal court shall hold a hearing and provide notification in the manner required for creation of a taxing district under KRS 65.182(2) to (5). Following the hearing, the fiscal court shall set forth its written findings of fact and shall approve or disapprove the formation of the subdistrict. The creation of the subdistrict shall be of legal effect only upon the adoption of an ordinance in accordance with the provisions of KRS 67.075 to 67.077. A certified copy of the ordinance creating the subdistrict shall be filed with the county clerk.

(5) Upon the creation of a fire protection subdistrict, the trustees shall levy a tax, not to exceed the amount stated in the petition, on the property in the subdistrict, for the purpose of improving fire protection facilities and services in the subdistrict.

(6) The tax levied under this section, combined with the tax for fire and emergency services levied on the entire district under KRS 75.040, shall not exceed***:***

(a) Ten cents ($0.10) per one hundred dollars ($100) of valuation as assessed for county taxes ***if neither the fire district nor the fire subdistrict operate an emergency ambulance service under the provisions of Section 1 of this Act; or***

(b) Twenty cents ($0.20) per one hundred dollars ($100) of valuation as assessed for county taxes if either the fire district or fire subdistrict operates an emergency ambulance service under the provisions of Section 1 of this Act.

At no time shall the trustees increase either of these taxes so that the combined total exceeds this limit.

(7) The county clerk shall add the levy to the tax bills of the affected property owners. For taxing purposes, the effective date of the tax levy shall be January 1 of the year following the certification and creation of the subdistrict. The tax shall be administered in the same manner as the tax on the entire district under KRS 75.040(2) and (3).

(8) The board of trustees shall not reduce the tax rate imposed on property in the district as a whole as a result of receiving extra revenue from the additional tax on property in the subdistrict. The trustees shall expend the extra revenue solely on improving fire protection facilities and services in the subdistrict and shall not expend the extra revenue on facilities or services that are shared by the entire district.

(9) Fire subdistrict taxes shall be placed on the tax bill in a place separate from the bill of the fire district tax so that ratepayers can ascertain the amount of each tax and its rate.

(10) The sheriff shall separately account to the fire district for the funds collected for each subdistrict within the fire district.

(11) Fire districts shall maintain a separate accounting of all subdistrict funds, and if there is more than one (1) subdistrict, a separate accounting for each subdistrict.

HB 412, AN ACT relating to the merger of fire protection districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 75.020 is amended to read as follows:

(1) The territorial limits of an established fire protection district, or a volunteer fire department district, as established under KRS 75.010 to 75.080, may be enlarged or diminished in the following way: The trustees of the fire protection district or of the volunteer fire department district shall file a petition in the county clerk's office of the county in which that district and the territory to be annexed or stricken off, or the greater part thereof, is located, describing the territory to be annexed or stricken and setting out the reasons therefor. Notice of the filing of such petition shall be given by publication as provided for in KRS Chapter 424. On the day fixed in the notice, the county judge/executive shall, if the proper notice has been given, and the publication made, and no written objection or remonstrance is interposed enter an order annexing or striking off the territory described in the petition. Fifty-one percent (51%) or more of the freeholders of the territory sought to be annexed or stricken off may, at any time before the date fixed in the notice, remonstrate in writing, filed in the clerk's office, to the action proposed. If such written remonstrance ***is***[~~be~~] filed***, the***[~~ said~~] clerk shall promptly give notice to the trustees of the fire protection district, or of the volunteer fire department district, and the county judge/executive shall hear and determine the same. If upon such hearing, the county judge/executive finds from the evidence that a failure to annex or strike off such territory will materially retard the functioning of the fire protection district or the volunteer fire department district and materially affect adversely the owners and the inhabitants of the territory sought to be annexed or stricken off, he ***or she*** shall enter an order, granting the annexation or striking off the territory. In the latter event, no new petition to annex or strike off all or any part of the same territory shall be entertained for a period of two (2) years. Any aggrieved person may bring an action in Circuit Court to contest the decision of the county judge/executive.

(2) The property in any territory annexed to a fire protection district or to a volunteer fire department district shall not be liable to taxation for the purpose of paying any indebtedness incurred by the fire protection district or the volunteer fire department district prior to the date of the annexation of such territory, except such indebtedness as represents ***the*** balance owing on ***the*** purchase price of firefighting equipment. The property in any territory stricken off from a fire protection district or a volunteer fire department district by the incorporation of or annexation by a city of this Commonwealth shall not be relieved of liability of such taxes as may be necessary to pay its proportionate share of the indebtedness incurred while such territory was a part of that district. Territories stricken by action of the county judge/executive under the provisions of subsection (1) shall be relieved of liability for all indebtedness incurred by the fire protection district or the volunteer fire department district.

(3) Any city that maintains a "regular fire department," and has either by incorporation or annexation caused property to be stricken from a fire protection district or a volunteer fire department district, shall assume the liability of such taxes as may be necessary to pay the proportional share of the indebtedness incurred while such territory was a part of said district.

(4) The territorial limits of two (2) or more fire protection districts, or volunteer fire department districts, as established by KRS 75.010 to 75.080, may be merged into one (1) fire protection district or volunteer fire department district as follows:

(a) The trustees of each fire protection district or volunteer fire department district shall file a joint petition in the county clerk's office of the county in which all of the districts and the territory to be merged into one (1) district, or the greater part of the district, is located, describing the territory to be merged into the district and setting out the reasons for the merger;

(b) Notice of the filing of the petition shall be given by publication as provided in KRS Chapter 424 for public notices;

(c) On the day fixed in the notice, the county judge/executive shall, if proper notice by publication has been given, and no written objection or remonstrance has been made, enter an order merging the fire protection districts or volunteer fire department districts described in the petition;

(d) Fifty-one percent (51%) or more of the property owners of the territory sought to be merged into one (1) district may, at any time before the date fixed in the notice, remonstrate by written petition to the county clerk regarding their objection to the merger of the districts. If a petition is filed, the county clerk shall give prompt notice to the trustees of the fire protection districts or the volunteer fire protection districts and the county judge/executive;

(e) The county judge/executive shall schedule a hearing regarding the petition and shall give public notice as to the date, time, and place of the hearing. If after the hearing, the county judge/executive finds from the evidence that a failure to merge the territory will materially retard the functioning of the fire protection districts or volunteer fire department districts and materially affect adversely the owners and the inhabitants of the territory sought to be merged, he ***or she*** shall enter an order granting the merger of the districts into one (1) fire protection district or volunteer fire department district;

(f)[~~If a merger of districts occurs, no new petition to merge or change the territorial boundaries of the newly merged district shall be attempted for a period of two (2) years; and~~

~~(g)~~] Any aggrieved person may bring an action in Circuit Court to contest the decision of the county judge/executive regarding the merger fire protection districts or volunteer fire department districts.

(5) The property in any fire protection district or volunteer fire department district which is merged with another fire protection district or volunteer fire department district shall not be liable to taxation for the purpose of paying any indebtedness incurred by the other fire protection district or volunteer fire department district prior to the date of the merger into one (1) fire protection district, except indebtedness which represents a balance owed on the purchase price of firefighting equipment from the other fire protection district or volunteer fire department district.

HB 413, AN ACT making an appropriation to local government police departments and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 23A IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section:

(a) "Local government" means a city, county, charter county, urban-county, or consolidated local government; and

(b) "Police department" means a police department created by a local government which employs one or more officers certified pursuant to KRS 15.380 to 15.404.

(2) In criminal cases a fee of twenty dollars ($20) shall be added to the costs imposed by KRS 23A.205 that the defendant is required to pay.

(3) The circuit clerk shall pay the funds from fees collected under this section to the Finance and Administration Cabinet pursuant to KRS 23A.215 for distribution as provided in subsection (4) of this section to local governments with police departments.

(4) All funds distributed to local governments shall be used for payment of the expenses for the operation of the local government's police department.

(5) Payments shall be distributed quarterly by the Finance and Administration Cabinet beginning October 1, 2004 as follows:

(a) Thirty percent (30%) of the total shall be distributed equally to all local governments with police departments; and

(b) The remaining seventy percent (70%) of the total shall be distributed to local governments with police departments on a per capita basis according to the number of certified police officers employed by the police department of July 1 each year.

(6) On or before August 1 of each year, the Justice Cabinet shall certify to the Finance and Administration Cabinet the number of certified police officers employed by each local government.

(7) The Finance and Administration Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A deemed necessary for the administration of this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 24A IS CREATED TO READ AS FOLLOWS:

(1) For the purposes of this section:

(a) "Local government" means a city, county, charter county, urban-county, or consolidated local government; and

(b) "Police department" means a police department created by a local government which employs one or more officers certified pursuant to KRS 15.380 to 15.404.

(2) In criminal cases a fee of twenty dollars ($20) shall be added to the costs imposed by KRS 24A.175 that the defendant is required to pay.

(3) The circuit clerk shall pay the funds from fees collected under this section to the Finance and Administration Cabinet pursuant to KRS 24A.175 for distribution as provided in subsection (4) of this section to local governments with police departments.

(4) All funds distributed to local governments shall be used for the payment of the expenses for the operation of the local government's police department.

(5) Payments shall be distributed quarterly by the Finance and Administration Cabinet beginning October 1, 2004 as follows:

(a) Thirty percent (30%) of the total shall be distributed equally to all local governments with police departments; and

(b) The remaining seventy percent (70%) of the total shall be distributed to local governments with police departments on a per capita basis according to the number of certified police officers employed by the police department on July 1 of each year.

(6) On or before August 1 of each year, the Justice Cabinet shall certify to the Finance and Administration Cabinet the number of certified police officers employed by each local government.

(7) The Finance and Administration Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A

necessary for the administration of this section.

Section 3. KRS 42.409 is amended to read as follows:

As used in KRS 42.410 and 45.760, unless the context requires otherwise:

(1) "State total personal income" means the measure of all income received by or on behalf of persons in the Commonwealth, as most recently published in the Survey of Current Business by the United States Department of Commerce, Bureau of Economic Analysis.

(2) "Estimated state total personal income" means the personal income figure used by the Governor's Office for Economic Analysis to generate final detailed revenue estimates.

(3) "Total revenues" means revenues credited to the general fund and the road fund consistent with the provisions of KRS 48.120, as well as any restricted agency fund account from which debt service is expended.

(4) "Anticipated total revenues" means final estimates of revenues, as provided for in KRS 48.120(2), projected for the general fund and the road fund, as well as any restricted agency fund account from which debt service is expended.

(5) "Available revenues" means revenues credited to the general fund and the road fund consistent with the provisions of KRS 48.120, as well as any restricted agency fund account from which debt service is expended, minus any statutorily dedicated receipts of the respective funds.

(6) "Anticipated available revenues" means final estimates of revenues, as provided for in KRS 48.120(2), projected for the general fund and the road fund, as well as any restricted agency fund account from which debt service is expended, minus any statutorily dedicated receipts of the respective funds.

(7) "Total assessed value of property" means state total net assessed value of property for taxes due, as obtained from the Revenue Cabinet.

(8) "Per capita" means per unit of population, where population figures are the most recent available from the University of Louisville, Kentucky State Data Center.

(9) "Appropriation-supported debt service" means the amount of an appropriation identified to be expended for debt service purposes in the executive budget recommendation, and the amount of an appropriation expended for debt services in a completed fiscal year.

(10) "Appropriation-supported debt" means the outstanding principal of bonds issued by all state agencies and all individuals, agencies, authorities, boards, cabinets, commissions, corporations, or other entities of, or representing the Commonwealth with the authority to issue bonds, and for which debt service is appropriated by the General Assembly.

(11) "Nonappropriation-supported debt" means the outstanding principal of bonds issued by all state agencies and all individuals, agencies, authorities, boards, cabinets, commissions, corporations, or other entities of, or representing the Commonwealth with the authority to issue bonds, and for which debt service is not appropriated by the General Assembly.

(12) "Statutorily dedicated receipts" means revenues credited to the general fund and road fund consistent with the provisions of KRS 48.120, as well as any restricted agency fund account, which are required by an enacted statute to be used for a specific purpose. Statutorily dedicated receipts include, but are not limited to, the following:

   (a) Receipts credited to the general fund which are subject to~~[KRS 24A.191, KRS 24A.192,]~~ KRS 42.450 to 42.495, KRS 278.130 to 278.150, or KRS 350.139;

   (b) Receipts credited to the road fund which are subject to KRS 175.505, KRS 177.320, KRS 177.365 to 177.369, KRS 177.9771 to 177.979, KRS 186.531, or KRS 186.535; and

   (c) Receipts credited to a restricted agency fund account in accordance with any applicable statute.

(13) "True interest cost" means the bond yield according to issue price without a reduction for related administrative costs, and is the same figure as the arbitrage yield calculation described in the United States Tax Reform Act of 1986.

Section 4. The following KRS sections are repealed:

24A.190 Definitions for KRS 24A.191 to 24A.193.

24A.191 Computation of net court revenue and base court revenue.

24A.192 Return to cities and counties of net court revenue.

24A.193 Authority for administrative regulations.

Section 5. Whereas, local governments with police departments have sustained a significant loss of revenue with the fifty percent (50%) reduction in base court revenue in 2003, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

HB 427, AN ACT relating to the taxing authority of emergency services boards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.670 is amended to read as follows:

(1) (a) In order to ensure the delivery of adequate services to the community or communities, the emergency services

board may levy an ad valorem tax not to exceed ten cents ($0.10) per one hundred dollars ($100) of the assessed valuation of all property in the district. ***The emergency services board may levy this ad valorem tax on the property of each taxpayer served by each district whose board is merged into the emergency services board.*** The emergency services board ad valorem tax shall be collected by the sheriff of each member county in the same manner as county ad valorem taxes. The sheriff shall be entitled to a fee of four percent (4%) of the amount of the tax collected; and

(b) The emergency services board may, in addition to the ad valorem tax in paragraph (a) of this subsection, charge fees necessary to further defray the costs of its operation.

(2) Tax and license fee revenues derived from this section shall be used only for the services described in KRS 65.660 or 65.662.

(3) The assets and liabilities of the special districts under the jurisdiction of the emergency services board shall be maintained separately, but shall be managed by the emergency services board.

The Committee on Appropriations and Revenue reported **HB 418** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 418, AN ACT relating to the Kentucky Asset/Liability Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 56.8605 is amended to read as follows:

As used in KRS 56.860 to 56.869:

(1) "Authorized project" means:

(a) Any project approved by the General Assembly and included in an enacted budget; or

(b) Any project approved by the General Assembly that is certified by the secretary of the Finance and Administration Cabinet in accordance with the provisions of KRS 56.870, to be of a type that will independently produce revenues ***or will be payable from receipts of federal transportation funds that are projected by the commission to be*** sufficient to fully meet debt service, issuance costs, reserve fund requirements, insurance premiums, or any other expenditures necessary for financing so that no appropriation of state funds is required;

(2) "Cabinet" means the Finance and Administration Cabinet;

(3) "Commercial paper" means obligations that by their terms mature not more than three hundred sixty-six (366) days from the date of their issuance and that may be refunded;

(4) "Commission" means the Kentucky Asset/Liability Commission;

(5) "Estimated revenues" means the detailed revenue estimate or revised revenue estimate as certified by the secretary of the Finance and Administration Cabinet pursuant to KRS 48.115 and 48.120 on or before the dates on which tax and revenue anticipation notes are awarded to the purchaser;

(6) "Financial agreements" means interest rate swaps, options, or other agreements between two (2) parties to exchange or have the conditional right to exchange interest rate exposure from fixed rate to variable rate or from variable rate to fixed rate, or to provide other economic benefit to an issuance of notes or a portfolio of notes, or to hedge the net interest margin of the Commonwealth;

(7) "Financing agreement" means an agreement between the commission and the cabinet, or between the cabinet and a state agency, relating to the funding of projects or items associated with projects as described in KRS 56.867(3), or a judgment against a state agency or the Commonwealth. The provisions of a financing agreement shall require either the cabinet to make payments to the commission relating to the commission's issuance of notes, or the state agency to make payments to the cabinet reimbursing the cabinet for its payments to the commission on the agency's behalf. The obligations of the cabinet or the state agency under a financing agreement shall be contingent upon appropriations by the General Assembly to the cabinet or to the agency for the payment of those obligations;

(8) "Fixed-rate obligations" means obligations on which the interest rate remains constant to maturity;

(9) "Funding notes" means notes issued under the provisions of KRS 56.860 to 56.869 by the commission with a final maturity of not more than ten (10) years for the purpose of funding judgments;

(10) "Interest-sensitive assets" means tangible and intangible property held by the Commonwealth whose market value is dependent upon the level of interest rates;

(11) "Interest-sensitive liabilities" means interest-bearing debts or other obligations of the Commonwealth or a state agency;

(12) "Multimodal obligations" means obligations for which the time period for establishing the rate of interest may be selectively determined and altered;

(13) "Net interest margin" means the net income or expense associated with the difference between the Commonwealth's interest-sensitive assets and interest-sensitive liabilities;

(14) "Project notes" means notes issued under the provisions of KRS 56.860 to 56.869 by the commission with a final maturity of not more than ***twenty (20)***[~~ten (10)~~] years for the purpose of funding authorized projects, which may include bond anticipation notes;

(15) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.005, and set out in KRS Chapter 12, or any board, commission, institution, state university, or division exercising any function of the Commonwealth;

(16) "Tax and revenue anticipation notes" means notes that are issued under the provisions of KRS 56.860 to 56.869 by the commission with a final maturity that is no later than the last day of the fiscal year during which the tax and revenue anticipation notes are issued and that are issued in anticipation of estimated revenues to be received in that fiscal year; and

(17) "Variable-rate demand obligations" means obligations on which the rate of interest is set by reference to a predetermined index or formula, by auction, by an agent that, in the sole judgment of the commission, has the financial expertise to establish market interest rates, or by similar means.

Section 2. KRS 56.863 is amended to read as follows:

The commission shall have the power and duty to:

(1) Maintain the records and perform the functions necessary and proper to accomplish the purposes of KRS 56.860 to 56.869;

(2) Promulgate administrative regulations relating to KRS 56.860 to 56.869;

(3) Conduct analysis to determine the impact of fluctuating receipts of revenues on the budget of the Commonwealth, fluctuating interest rates upon the interest-sensitive assets and interest-sensitive liabilities of the Commonwealth, and the resulting change in the net interest margin on the budget of the Commonwealth;

(4) Develop strategies to mitigate the impact of fluctuating receipts of revenues on the budget of the Commonwealth and of fluctuating interest rates on the Commonwealth's interest-sensitive assets and interest-sensitive liabilities;

(5) Report its findings to the State Investment Commission at least annually to assist the State Investment Commission in developing and implementing its investment strategy. The State Investment Commission shall provide the commission with a copy of its monthly investment income report to aid the commission in developing and implementing its strategies;

(6) Issue funding notes, project notes, and tax and revenue anticipation notes or other obligations on behalf of any state agency to fund authorized projects or to satisfy judgments;

(7) Refund any funding notes, project notes, or tax and revenue anticipation notes issued under KRS 56.860 to 56.869 to achieve economic savings, to better match receipts with expenditures, or as a part of a continuing finance program;

(8) Designate individual employees or officers of the Office of Financial Management as agents for purposes of approving the principal amount of tax and revenue anticipation notes, the interest rate, the discount, maturity date, and other relevant terms of tax and revenue anticipation notes, project notes, and funding notes or refunding notes issued within constraints established by the commission and to execute agreements, including notes and financial agreements, for the commission;

(9) Enter into financial agreements for the purpose of hedging ***its current or projected***[~~a portfolio of~~] interest-sensitive assets and interest-sensitive liabilities to stabilize the Commonwealth's net interest margin, as deemed necessary by the commission, subject to administrative regulations promulgated by the commission that limit the net exposure of the Commonwealth as a result of these financial agreements;

(10) Deposit net interest payments and premiums received by the commission under financial agreements[~~ relating to funding notes, project notes, and tax and revenue anticipation notes~~] into a restricted account, which shall not lapse at the end of the fiscal year but shall continue to accumulate to act as security for these financial agreements. This duty is mandatory in nature. Any accumulated funds in excess of the amount determined by the commission to be necessary to establish this security may be applied to debt service payments, net interest payments, and premiums and expenses related to ***interest-sensitive liabilities***[~~tax and revenue anticipation notes, project notes, and funding notes~~]; and

(11) Report to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue on a semiannual basis, by September 30 and March 31 of each year, the following:

   (a) A description of the Commonwealth's investment and debt structure;

   (b) The plan developed to mitigate the impact of fluctuating revenue receipts on the budget of the Commonwealth and fluctuating interest rates on the interest-sensitive assets and interest-sensitive liabilities of the Commonwealth, including an analysis of the impact that a change in the net interest margin would have on the budget of the Commonwealth. The report due by March 31 of each year shall reflect the strategy for January through June of the fiscal year, and the report due by September 30 shall reflect the strategy for July through December of the fiscal year;

   (c) The principal amount of notes issued, redeemed, and outstanding; and a description of all financial agreements entered into during the reporting period. The report due by March 31 shall include information about agreements entered into from July through December of the fiscal year. The report due by September 30 shall include information about agreements entered into between January and June of the prior fiscal year; and

(d) A summary of gains and losses associated with financial agreements and any other cash flow strategies undertaken by the commission to mitigate the effect of fluctuating interest rates during each reporting period. The report due by March 31 shall include information about agreements and strategies entered into or undertaken from July through December of the fiscal year. The report due by September 30 shall include information about agreements and strategies entered into or undertaken from January through June of the prior fiscal year.

The Committee on State Government reported **HB 9**, with Committee Substitute attached thereto, and **HB 430** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 9, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.637 is amended to read as follows:

(1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.515 to 61.705 and 78.520 to 78.852 and who is reemployed as an employee by a participating agency prior to August 1, 1998, shall have his retirement payments suspended for the duration of reemployment. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.

(2) Employer and employee contributions shall be made as provided in KRS 61.515 to 61.705 and 78.520 to 78.852 on the compensation paid during reemployment, except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar ($1), and the member shall be credited with additional service credit.

(3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.

(4) (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, if he does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment;

(b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment;

(c) If the retired member is not eligible to be paid suspended payments for his period of reemployment as an employee, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:

1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined;
2. If the retired member initially retired on or subsequent to his normal retirement date, his retirement allowance shall be recomputed by using the formula in KRS 61.595(1);
3. If the retired member initially retired prior to his normal retirement date, his retirement allowance shall be recomputed using the formula in KRS 61.595(2), except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment;
4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. The member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691;
5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.

(5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty cents ($0.50) of each dollar earned over the maximum permissible earnings during reemployment if under age sixty-five (65), or one dollar ($1) for every three dollars ($3) earned if over age sixty-five (65).

(6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered

reinstated by the Personnel Board under authority of KRS 18A.095; and

(b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

(7) (a) Effective August 1, 1998, the provisions of subsections (1) to (4) of this section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which the member retired. Reemployed retired members shall be treated as new members upon reemployment. Any retired member whose reemployment date preceded August 1, 1998, who does not elect, within sixty (60) days of notification by the retirement systems, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection.

(b) A retired member whose disability retirement was discontinued pursuant to KRS 61.615 and who is reemployed in one (1) of the systems administered by the Kentucky Retirement Systems prior to his or her normal retirement date shall have his or her accounts combined upon termination for determining eligibility for benefits. If the member is eligible for retirement, the member's service and creditable compensation earned as a result of his or her reemployment shall be used in the calculation of benefits, except that the member's final compensation shall not be less than the final compensation last used in determining his or her retirement allowance. The member shall not change beneficiary or payment option designations. This provision shall apply to members reemployed on or after August 1, 1998.

(8) A retired member or his employer shall notify the retirement system if he has accepted employment with an agency that participates in the retirement system from which the member retired.

(9) If the retired member is under a contract, the member shall submit a copy of that contract to the retirement system, and the retirement system shall determine if the member is an independent contractor for purposes of retirement benefits.

(10) If a member is receiving a retirement allowance, or has filed the forms required for a retirement allowance, and is employed within one (1) month of the member's initial retirement date in a position that is required to participate in the same retirement system from which the member retired, the member's retirement shall be voided and the member shall repay to the retirement system all benefits received. The member shall contribute to the member account established for him prior to his voided retirement. The retirement allowance for which the member shall be eligible upon retirement shall be determined by total service and creditable compensation.

(11) (a) If a member of the Kentucky Employees Retirement System retires from a department which participates in more than one (1) retirement system and is reemployed within one (1) month of his initial retirement date by the same department in a position participating in another retirement system, the retired member's retirement allowance shall be suspended for the first month of his retirement and the member shall repay to the retirement system all benefits received for the month.

(b) A retired member of the County Employees Retirement System who after initial retirement is hired by the county from which the member retired shall be considered to have been hired by the same employer.

(c) If an elected official resigns, begins receiving a retirement allowance, and is employed in an elected position required to participate in the same retirement system from which he or she is retired, within twelve (12) months of his or her resignation, the member's retirement shall be voided and the member shall repay to the retirement system all benefits received including medical insurance. The member shall contribute to the member account established for him or her prior to the voided retirement. The retirement allowance for which the member shall be eligible upon retirement shall be determined by total service and creditable compensation. The provisions of this paragraph shall apply to elected officials who retire after the effective date of this Act.

(12) (a) If a hazardous member who retired prior to age fifty-five (55), or a nonhazardous member who retired prior to age sixty-five (65), is reemployed within six (6) months of the member's termination by the same employer, the member shall obtain from his previous and current employers a copy of the job description established by the employers for the position and a statement of the duties performed by the member for the position from which he retired and for the position in which he has been reemployed.

(b) The job descriptions and statements of duties shall be filed with the retirement office.

(13) If the retirement system determines that the retired member has been employed in a position with the same principal duties as the position from which the member retired:

(a) The member's retirement allowance shall be suspended during the period that begins on the month in which the member is reemployed and ends six (6) months after the member's termination.

(b) The retired member shall repay to the retirement system all benefits paid from systems administered by Kentucky Retirement Systems under reciprocity, including medical insurance benefits, that the member received after reemployment began.

(c) Upon termination, or subsequent to expiration of the six (6) month period from the date of termination, the retired member's retirement allowance based on his initial retirement account shall no longer be suspended and the member shall receive the amount to which he is entitled, including an increase as provided by KRS 61.691.

(d) Except as provided in subsection (7) of this section, if the position in which a retired member is employed after initial retirement is a regular full-time position, the retired member shall contribute to a second member account established for him in the retirement system. Service credit gained after the member's date of reemployment shall be credited to the second member account.

(e) Upon termination, the retired member shall be entitled to benefits payable from his second retirement account.

(14) (a) If the retirement system determines that the retired member has not been reemployed in a position with the same principal duties as the position from which he retired, the retired member shall continue to receive his retirement allowance.

(b) If the position is a regular full-time position, the member shall contribute to a second member account in the retirement system.

(15) (a) If a retired member is reemployed at least one (1) month after initial retirement in a different position, or at least six (6) months after initial retirement in the same position, and prior to normal retirement age, the retired member shall contribute to a second member account in the retirement system and continue to receive a retirement allowance from the first member account.

(b) Service credit gained after reemployment shall be credited to the second member account. Upon termination, the retired member shall be entitled to benefits payable from the second member account.

(16) A retired member who is reemployed and contributing to a second member account shall not be eligible to purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 which he was eligible to purchase prior to his initial retirement.

The Committee Substitute to **HB 9** is as follows:

HB 9, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.637 is amended to read as follows:

(1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.515 to 61.705 and 78.520 to 78.852 and who is reemployed as an employee by a participating agency prior to August 1, 1998, shall have his retirement payments suspended for the duration of reemployment. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.

(2) Employer and employee contributions shall be made as provided in KRS 61.515 to 61.705 and 78.520 to 78.852 on the compensation paid during reemployment, except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar ($1), and the member shall be credited with additional service credit.

(3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.

(4) (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, if he does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment;

(b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment;

(c) If the retired member is not eligible to be paid suspended payments for his period of reemployment as an employee, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:

1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined;
2. If the retired member initially retired on or subsequent to his normal retirement date, his retirement allowance shall be recomputed by using the formula in KRS 61.595(1);
3. If the retired member initially retired prior to his normal retirement date, his retirement allowance shall be recomputed using the formula in KRS 61.595(2), except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment;

4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. The member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691;

5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.

(5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty cents ($0.50) of each dollar earned over the maximum permissible earnings during reemployment if under age sixty-five (65), or one dollar ($1) for every three dollars ($3) earned if over age sixty-five (65).

(6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095; and

(b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

(7) (a) Effective August 1, 1998, the provisions of subsections (1) to (4) of this section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which the member retired. Reemployed retired members shall be treated as new members upon reemployment. Any retired member whose reemployment date preceded August 1, 1998, who does not elect, within sixty (60) days of notification by the retirement systems, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection.

(b) A retired member whose disability retirement was discontinued pursuant to KRS 61.615 and who is reemployed in one (1) of the systems administered by the Kentucky Retirement Systems prior to his or her normal retirement date shall have his or her accounts combined upon termination for determining eligibility for benefits. If the member is eligible for retirement, the member's service and creditable compensation earned as a result of his or her reemployment shall be used in the calculation of benefits, except that the member's final compensation shall not be less than the final compensation last used in determining his or her retirement allowance. The member shall not change beneficiary or payment option designations. This provision shall apply to members reemployed on or after August 1, 1998.

(8) A retired member or his employer shall notify the retirement system if he has accepted employment with an agency that participates in the retirement system from which the member retired. ***A retired member who is employed in an elected position required to participate in the same retirement system from which he or she is receiving a retirement allowance shall notify the system of his employment by the date he or she takes office.***

(9) If the retired member is under a contract, the member shall submit a copy of that contract to the retirement system, and the retirement system shall determine if the member is an independent contractor for purposes of retirement benefits.

(10) If a member is receiving a retirement allowance, or has filed the forms required for a retirement allowance, and is employed within one (1) month of the member's initial retirement date in a position that is required to participate in the same retirement system from which the member retired, the member's retirement shall be voided and the member shall repay to the retirement system all benefits received. The member shall contribute to the member account established for him prior to his voided retirement. The retirement allowance for which the member shall be eligible upon retirement shall be determined by total service and creditable compensation.

(11) (a) If a member of the Kentucky Employees Retirement System retires from a department which participates in more than one (1) retirement system and is reemployed within one (1) month of his initial retirement date by the same department in a position participating in another retirement system, the retired member's retirement allowance shall be suspended for the first month of his retirement and the member shall repay to the retirement system all benefits received for the month.

(b) A retired member of the County Employees Retirement System who after initial retirement is hired by the county from which the member retired shall be considered to have been hired by the same employer.

(c) If an elected official resigns, begins receiving a retirement allowance, and is employed in an elected position required to participate in the same retirement system from which he or she is retired, within twelve (12) months of his or her resignation, the member's retirement shall be suspended. The member shall contribute to the member account established for him or her prior to retirement. The retirement allowance for which the member shall be eligible upon retirement shall be determined pursuant to subsection (4)(c) of this section. The provisions of this paragraph shall apply to elected officials who retire after the effective date of this Act.

(12) (a) If a hazardous member who retired prior to age fifty-five (55), or a nonhazardous member who retired prior to age

sixty-five (65), is reemployed within six (6) months of the member's termination by the same employer, the member shall obtain from his previous and current employers a copy of the job description established by the employers for the position and a statement of the duties performed by the member for the position from which he retired and for the position in which he has been reemployed.

(b) The job descriptions and statements of duties shall be filed with the retirement office.

(13) If the retirement system determines that the retired member has been employed in a position with the same principal duties as the position from which the member retired:

(a) The member's retirement allowance shall be suspended during the period that begins on the month in which the member is reemployed and ends six (6) months after the member's termination.

(b) The retired member shall repay to the retirement system all benefits paid from systems administered by Kentucky Retirement Systems under reciprocity, including medical insurance benefits, that the member received after reemployment began.

(c) Upon termination, or subsequent to expiration of the six (6) month period from the date of termination, the retired member's retirement allowance based on his initial retirement account shall no longer be suspended and the member shall receive the amount to which he is entitled, including an increase as provided by KRS 61.691.

(d) Except as provided in subsection (7) of this section, if the position in which a retired member is employed after initial retirement is a regular full-time position, the retired member shall contribute to a second member account established for him in the retirement system. Service credit gained after the member's date of reemployment shall be credited to the second member account.

(e) Upon termination, the retired member shall be entitled to benefits payable from his second retirement account.

(14) (a) If the retirement system determines that the retired member has not been reemployed in a position with the same principal duties as the position from which he retired, the retired member shall continue to receive his retirement allowance.

(b) If the position is a regular full-time position, the member shall contribute to a second member account in the retirement system.

(15) (a) If a retired member is reemployed at least one (1) month after initial retirement in a different position, or at least six (6) months after initial retirement in the same position, and prior to normal retirement age, the retired member shall contribute to a second member account in the retirement system and continue to receive a retirement allowance from the first member account.

(b) Service credit gained after reemployment shall be credited to the second member account. Upon termination, the retired member shall be entitled to benefits payable from the second member account.

(16) A retired member who is reemployed and contributing to a second member account shall not be eligible to purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 which he was eligible to purchase prior to his initial retirement.

Section 2. KRS 64.5275 is amended to read as follows:

(1) The General Assembly of the Commonwealth of Kentucky hereby finds and determines that county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs in all counties are officers whose duties or jurisdictions are coextensive with that of the Commonwealth within the meaning of Section 246 of the Constitution of Kentucky.

(2) Effective on the first Monday in January of 1999, the maximum salary of county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs shall be fixed by the Department for Local Government according to a salary schedule in accordance with Section 246 of the Kentucky Constitution. The salary schedule provides that these officials, as officers whose jurisdiction or duties are coextensive with the Commonwealth, shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum as adjusted for any increase or decrease in the consumer price index and as described in subsection (4) of this section.

(3) The salary schedule for county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs in all counties provides for nine (9) levels of salary based upon the population of the county in the year prior to the election of county officials as determined by the United States Department of Commerce, Bureau of the Census's annual estimates. To implement the salary schedule, the Department for Local Government shall, by November 1 of each year preceding the election of county officials, certify for each county the population group applicable to each county based on the most recent estimates of the United States Department of Commerce, Bureau of the Census. For the purposes of this section, the salary schedule for county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs shall remain as determined by the Department for Local Government pursuant to this section, regardless of changes in the population estimates or the actual census count that may occur during the term for which the official has been elected or appointed. The salary schedule provides four (4) steps for yearly increments within each population group. County officers named in this section shall be paid according to the first step within their population group for the first year or portion thereof they serve in office. Thereafter, each officer, on January 1 of each subsequent year, shall be advanced automatically to the next step in the salary schedule until the maximum salary figure for the population group is reached. Prior to assuming office on the first Monday in January, 1999, or thereafter, any person assuming any of the offices for which the salary is determined

by this section must certify to the commissioner of the Department for Local Government the total number of years, not to exceed four (4) years, that the person has previously served in the office. The department shall place the officer in the proper step based upon a formula of one (1) incremental step per full calendar year of service:

SALARY SCHEDULE

County Population by Group	Steps and Salary for Affected Officers			
Group I	Step 1	Step 2	Step 3	Step 4
0-4,999	$6,600	$6,800	$7,000	$7,200
Group II				
5,000-9,999	7,200	7,400	7,600	7,800
Group III				
10,000-19,999	7,800	8,000	8,200	8,400
Group IV				
20,000-29,999	8,100	8,400	8,700	9,000
Group V				
30,000-44,999	8,700	9,000	9,300	9,600
Group VI				
45,000-59,999	9,000	9,400	9,800	10,200
Group VII				
60,000-89,999	9,600	10,000	10,400	10,800
Group VIII				
90,000-499,999	9,900	10,400	10,900	11,400
Group IX				
500,000 and up	10,500	11,000	11,500	12,000

(4) Upon publication of the annual consumer price index by the United States Department of Commerce, the Department for Local Government shall fix the salary of the county judge/executive, county clerk, jailer who operates a full service jail, and sheriff at an annual rate of salary to which the county official is entitled pursuant to the increase in the Consumer Price Index and the salary schedule contained in this section. This salary determination shall be retroactive to the preceding January 1.

(5) Notwithstanding ***subsection (9) or*** any ***other*** provision contained in this section, no county official holding office on July 15, 1998, shall receive any reduction in salary or reduction in adjustment to salary otherwise allowable by the statutes in force on July 15, 1998.

(6) In addition to the step increases based on service in office, each officer shall be paid an annual incentive of one hundred dollars ($100) per calendar year for each forty (40) hour training unit successfully completed, based on continuing service in that office and, except as provided in this subsection, completion of at least forty (40) hours of approved training in each subsequent calendar year. If an officer fails, without good cause as determined by the commissioner of the Department for Local Government, to obtain the minimum amount of approved training in any year, the officer shall lose all training incentives previously accumulated. Each training unit shall be approved and certified by the Department for Local Government. No officer shall receive more than one (1) training unit per calendar year nor more than four (4) incentive payments per calendar year. Each officer shall be allowed to carry forward up to forty (40) hours of training credit into the following calendar year for the purpose of satisfying the minimum amount of training for that year. Each annual incentive payment shall be adjusted by the Department for Local Government on an annual basis for any increase or decrease in the consumer price index in the same manner as salaries are adjusted as described in subsection (4) of this section. The Department for Local Government shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish guidelines for the approval and certification of training units.

(7) Except in counties that contain an urban-county form of government, justices of the peace who serve on fiscal courts, county commissioners, and jailers who operate life safety jails, jailers who are part of a transportation plan, or jailers who act as court bailiffs shall also be eligible for the training incentive payments in accordance with subsection (6) of this section.

(8) The provisions of this section shall not apply to a county judge/executive in a county which has established a consolidated local government pursuant to KRS Chapter 67C.

(9) If an elected official identified in subsection (1) of this section resigns, begins receiving a retirement allowance , and is

reemployed within twelve (12) months of his or her initial retirement date to the same county office, that county official:

(a) Shall be paid in accordance with Step 1 of the salary schedule set out in subsection (3) of this section, regardless of accumulated years of experience prior to his or her retirement; and

(b) Shall not be advanced beyond Step 1 of the salary schedule for the remainder of his or her term in office.

HB 430, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164A.700 is amended to read as follows:

As used in KRS 164A.700 to 164A.709, unless the context requires otherwise:

(1) "Academic year" means the time period specified by each eligible educational institution;

(2) "Board" means the board of directors of the ***Kentucky Higher Education Assistance Authority acting in the capacity as the board of directors of the*** Commonwealth postsecondary education prepaid tuition trust fund;

(3) "Eligible educational institution" means an institution defined in the Internal Revenue Code of 1986, as amended, 26 U.S.C. sec. 529;

(4) "Fund" means the prepaid tuition payment fund created in KRS 164A.701 and known as the "Commonwealth Postsecondary Education Prepaid Tuition Trust Fund" which shall be marketed under the name "Kentucky's Affordable Prepaid Tuition";

(5)[~~"Office" means the Tuition Account Program Office in the Office of the State Treasurer that is responsible for administering the prepaid tuition accounts;~~

~~(6)~~] "Prepaid tuition" means the amount of tuition estimated by the board for the tuition plan under the prepaid tuition contract;

(6)[~~(7)~~] "Prepaid tuition academic year conversion" means the difference between the amount of prepaid tuition required in the original prepaid tuition contract and the amount of prepaid tuition required in an amended prepaid tuition contract as the result of the change in the academic year;

(7)[~~(8)~~] "Prepaid tuition academic year conversion shortfall" means the amount by which the prepaid tuition required in an amended prepaid tuition contract as the result of the change in the academic year exceeds the amount of prepaid tuition required in the original prepaid tuition contract;

(8)[~~(9)~~] "Prepaid tuition account" means the account for a qualified beneficiary as specified in the prepaid tuition contract;

(9)[~~(10)~~] "Prepaid tuition contract" means the contract entered into by the board and the purchaser for the purchase of prepaid tuition for a qualified beneficiary to attend any eligible educational institution as provided in KRS 164A.700 to 164A.709;

(10)[~~(11)~~] "Prepaid tuition conversion" means the difference between the value of a prepaid tuition account and the tuition at an eligible educational institution;

(11)[~~(12)~~] "Prepaid tuition conversion shortfall" means the amount by which the actual tuition cost at an eligible educational institution exceeds the amount of the value of a prepaid tuition account;

(12)[~~(13)~~] "Purchaser" means a person, corporation, association, partnership, or other legal entity who enters into a prepaid tuition contract;

(13)[~~(14)~~] "Qualified beneficiary" means ***a designated beneficiary, as defined in 26 U.S.C. sec. 529(e)(1), who is***:

(a) Any Kentucky resident designated as beneficiary at the time a purchaser enters into a prepaid tuition contract; or

(b) Any nonresident designated at the time a purchaser enters into a prepaid tuition contract who intends to attend an eligible institution in Kentucky; or

(c) The new beneficiary, in the case of a change of beneficiaries under provisions of KRS 164A.707; or

(d) The individual receiving a scholarship in the case of a prepaid tuition contract purchased by a state or local government or agency or instrumentality thereof or an organization described in 26 U.S.C. sec. 501(c)(3), and exempt from federal income taxation pursuant to 26 U.S.C. sec. 501(a) as part of a scholarship program offered by the government entity or the organization;

(14) "Qualified postsecondary education expenses" means qualified higher education expenses as defined in 26 U.S.C. sec. 529;

(15) "Tuition" means the ***prevailing tuition***[~~actual charges~~] and all mandatory fees ***charged***[~~required~~] as a condition of full-time enrollment in an undergraduate program for an academic year for a qualified beneficiary to attend an eligible educational institution;

(16) "***Tuition Account Program Office***"[~~Qualified postsecondary education expenses"~~] means the ***office established in the Kentucky Higher Education Assistance Authority that is responsible for administering the prepaid tuition accounts***[~~expenses as defined in 26 U.S.C. sec. 529~~];

(17) "Tuition plan" means a tuition plan approved by the board and provided under a prepaid tuition contract;

(18) "Value of a prepaid tuition account" means the amount which the fund is obligated to pay for tuition for an academic period based on full payment of the purchaser's tuition plan; except, under a tuition plan for private colleges and universities, tuition shall be calculated based on the same percentage that University of Kentucky tuition is increased from the year the prepaid tuition contract is purchased to the year of payment.

Section 2. KRS 164A.701 is amended to read as follows:

(1) There is hereby created an instrumentality of the Commonwealth to be known as the "Commonwealth postsecondary education prepaid tuition trust fund", to be governed by a board of directors and administered by the Tuition Account Program Office[~~ in the Office of the State Treasurer~~]. The fund shall consist of payments received from prepaid tuition contracts under KRS 164A.700 to 164A.709. Income earned from the investment of the fund shall remain in the fund and be credited to it. The fund shall not constitute an investment company as defined in KRS 291.010.

(2) The purposes of the fund are:

(a) To provide affordable access to participating institutions for the qualified beneficiaries; and

(b) To provide students and their parents economic protection against rising tuition costs.

(3) The ***Tuition Account Program*** office and the facilities of the ***Kentucky Higher Education Assistance Authority***[~~State Treasurer~~] shall be used and employed in the administration of the fund including, but not limited to, the keeping of records, the employment of staff to assist in the administration of the fund, the management of accounts and other investments, the transfer of funds, and the safekeeping of securities evidencing investments.[~~ The office of the Treasurer and the board of the Kentucky Higher Education Assistance Authority, shall work together to jointly market, as appropriate, the Commonwealth Prepaid Tuition Plan and the Savings Plan established in KRS 164A.300.~~]

(4) Assets of the fund shall constitute public funds of the Commonwealth ***that***[~~and~~] may be invested[~~ in any instrument, obligation, security, or property that constitutes legal investments for the investment of public funds in the Commonwealth that are deemed most appropriate~~] by the board***, notwithstanding any other statutory limitations which are specifically determined to be inapplicable to the fund,*** and may be pooled for investment purposes with any other investment of the Commonwealth that is eligible for asset pooling.

(5) The ***board***[~~fund, through the State Treasurer,~~] may receive and deposit into the fund gifts made by any individual or agency as deemed acceptable by the board.

(6) There is created a separate account within the ***Kentucky Higher Education Assistance Authority***[~~State Treasurer's office~~] to be known as the prepaid postsecondary tuition administrative account for the purposes of implementing and maintaining the fund. Funds may be transferred from the property abandoned under KRS Chapter 393 to the administrative account and shall be repaid to the abandoned property fund no later than three (3) years after the transfer. The board may establish administrative fees for handling prepaid tuition contracts and deposit the money in this account.

[~~(7) Four (4) years after July 14, 2000, the administration of the fund shall be transferred from the Office of the State Treasurer to the Kentucky Higher Education Assistance Authority unless the General Assembly shall decide that the administration of the fund shall remain in the Office of the State Treasurer.~~]

Section 3. KRS 164A.709 is amended to read as follows:

(1) A purchaser may terminate a prepaid tuition contract at any time upon written request to the office.

(2) Upon termination of a prepaid tuition contract at the request of a purchaser, the office shall pay from the fund to the purchaser:

(a) The value of the prepaid tuition account if the contract is terminated for:

1. The death of the qualified beneficiary; or

2. The disability of the qualified beneficiary that, in the opinion of the office, would make attendance by the beneficiary at an eligible educational institution impossible or unreasonably burdensome; or

3. A request made on or after July 1 of the initial projected year of enrollment of the qualified beneficiary; and

(b) The amounts paid on the purchaser's prepaid tuition contract if the contract is terminated and a request for refund is made before July 1 of the qualified beneficiary's initial projected year of enrollment. The board may determine a rate of interest to accrue for payment on the amount otherwise payable under this paragraph.

(3) At the option of the purchaser the value of the prepaid tuition account may be carried forward to another academic year or distributed by the fund upon the purchaser's request.

(4) All refunds paid shall be net of administrative fees as determined by the board. The office may impose a fee upon termination of the account for administrative costs and deduct the fee from the amount otherwise payable under this section.

(5) If a qualified beneficiary is awarded a scholarship that covers tuition costs included in a prepaid tuition contract, the purchaser may request a refund consisting of the amount of the value of the prepaid tuition account, not to exceed the amount of the scholarship.

(6) If the purchaser wishes to transfer funds from the prepaid tuition account to the Kentucky[~~ Higher~~] Educational Savings

Plan Trust, the purchaser may do so under administrative regulations promulgated by the board of directors ***for***~~[of]~~ the Commonwealth postsecondary education prepaid tuition trust fund and ***for*** the ***Kentucky Educational Savings Plan Trust***~~[board of the Kentucky Higher Education Assistance Authority]~~.

(7) If the purchaser wishes to transfer funds from the prepaid tuition account to another qualified tuition program as defined in 26 U.S.C. sec. 529, the purchaser may do so under administrative regulations promulgated by the board.

(8) The board may terminate a prepaid tuition contract at any time due to the fraud or misrepresentation of a purchaser or qualified beneficiary with respect to the prepaid tuition contract.

Section 4. KRS 164A.707 is amended to read as follows:

(1) Purchasers buying prepaid tuition for a qualified beneficiary shall enter into prepaid tuition contracts with the board. These contracts shall be in a form as shall be determined by the office. The contract shall provide for the purchase of a tuition plan for prepaid tuition for the qualified beneficiary from one (1) to five (5) specific academic years.

(2) Upon written notification to the office a purchaser may amend the prepaid tuition contract to change:

  (a) The qualified beneficiary, in accordance with 26 U.S.C. sec. 529;

  (b) The academic year or years for which prepaid tuition is purchased;

  (c) A tuition plan designation to another tuition plan designation;

  (d) The number of years for which prepaid tuition is purchased; or

  (e) Other provisions of the prepaid tuition contract as permitted by the board.

(3) A prepaid tuition account shall not be subject to attachment, levy, or execution by any creditor of a purchaser or qualified beneficiary. Prepaid tuition accounts shall be exempt from all state and local taxes including, but not limited to, intangible personal property tax levied under KRS 132.020, individual income tax levied under KRS 141.020, and the inheritance tax levied under KRS Chapter 140. Payments from a prepaid tuition account used to pay qualified postsecondary education expenses, or disbursed due to the death or disability of the beneficiary, or receipt of a scholarship by the beneficiary shall be exempt from tax liabilities.

(4) Nothing in KRS 164A.700 to 164A.709 or in a prepaid tuition contract shall be construed as a promise or guarantee that a qualified beneficiary shall be admitted to an eligible educational institution, be allowed to continue to attend an eligible educational institution after having been admitted, or be graduated from an eligible educational institution.

(5) Prepaid tuition contract payments shall not be made in real or personal property other than cash and shall not exceed the prepaid tuition. Prepaid tuition contract payments may be made in lump-sum installments.

(6) The purchaser shall designate the qualified beneficiary at the time the purchaser enters into a prepaid tuition contract, except for a prepaid tuition contract purchased in accordance with KRS 164A.700***(13)***~~[(14)]~~(d). In the case of gifts made to the fund, the board shall designate a qualified beneficiary at the time of the gift.

(7) The prepaid tuition contract shall provide that the purchaser and the qualified beneficiary shall not directly or indirectly or otherwise control the investment of the prepaid tuition account or earnings on the account. Payments made for prepaid tuition shall be accounted for separately for each qualified beneficiary. No interest or earnings on a prepaid tuition contract of the purchaser or qualified beneficiary shall be pledged or otherwise encumbered as security of a debt.

(8) A prepaid tuition contract does not constitute a security as defined in KRS 292.310 or an annuity as defined in KRS 304.5-030.

(9) Each prepaid tuition contract is subject to, and shall incorporate by reference, all operating procedures and policies adopted by the board, the statutes governing prepaid tuition contracts in KRS 164A.700 to 164A.709 and 393.015, and administrative regulations promulgated thereunder. Any amendments to statutes, administrative regulations, and operating procedures and policies shall automatically amend prepaid tuition contracts, with retroactive or prospective effect, as applicable.

Section 5. The following KRS sections are repealed:

41.025 Tuition Account Program Office.

164A.703 Board of directors.

Section 6. The General Assembly confirms Executive Order 2003-652, dated June 26, 2003, which relates to administrative transfers from the Office of the State Treasurer of the Commonwealth postsecondary education trust fund, administered as Kentucky's Affordable Prepaid Tuition (KAPT) Program, to the Kentucky Higher Education Assistance Authority's board of directors, to the extent the order is not otherwise conformed or superseded by this Act.

The Committee on Labor and Industry reported **HB 63** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 63, AN ACT relating to credit card solicitations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act, unless the context indicates otherwise:

(1) "College campus" means the premises and grounds of an institution of postsecondary education.

(2) "Credit card" means a writing, number, or other evidence of an undertaking to pay for property or services delivered or rendered to or upon the order of a designated person or bearer.

(3) "Credit card issuer" means a person, corporation, financial institution, or business entity that offers and issues credit cards.

(4) "Institution of postsecondary education" means an institution in the "postsecondary education system" as defined in KRS 164.001 and a "college" as defined in KRS 164.945.

(5) "Solicitation" means an act of asking, enticing, or requesting a student to read, review, or consider materials relating to an application for a credit card or to complete an application for a credit card.

(6) "Student" means a person who is under twenty-one (21) years of age and who attends an institution of postsecondary education, whether enrolled on a full-time or part-time basis.

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Prior to engaging in the solicitation of a student on a college campus, a credit card issuer shall register its intent to solicit the student for that purpose with an appropriate official of the institution of postsecondary education. The registration shall include the principal place of business of the credit card issuer and shall be in such form as required by administrative regulations of the Council on Postsecondary Education.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

An application for a credit card executed by a student who was solicited for the credit card on a college campus shall be void and unenforceable unless the parent or legal guardian of the student consents in writing to the student's submission of the application to the credit card issuer. Parental consent under this section shall not be construed as an agreement by the parent or legal guardian to be liable under the credit card agreement unless the parent or legal guardian specifically agrees in writing to do so.

SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

A credit card issuer shall not take any debt collection action against the parent or legal guardian of a student for whom a credit card has been issued unless the parent or legal guardian has agreed in writing to be liable for the debts of the student under the credit card agreement. A violation of this section shall be construed as an unlawful trade practice under KRS 367.170.

SECTION 5. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 5 of this Act shall be known and may be cited as the College Campus Credit Card Solicitation Act.

Representative Hoffman moved to suspend the rules to act on a Resolution. Agreed.

Representative Hoffman moved the adoption of the following **HR 133**:

HR 133, A RESOLUTION in honor of Kentucky's Career and Technical Education Student Organization Leadership Day.

WHEREAS, the Association for Career and Technical Education has established the theme "Career Tech: The Path to Success" for Career and Technical Education Week, February 8-14, 2004; and

WHEREAS, the Kentucky Association for Career and Technical Education commemorates Career and Technical Education Week with Student Organization Leadership Day on February 10, 2004; and

WHEREAS, more than 800 representatives of Kentucky's career and technical education student organizations and their advisors are participating in Student Organization Leadership Day, which consists of a formal citizenship educational program and the opportunity to tour the State Capitol and meet with their Representatives and Senators; and

WHEREAS, Kentucky's career and technical education student organizations provide secondary and postsecondary students the opportunity to develop leadership skills and further explore possible career options, enhancing their ability to achieve success in life and to become future leaders in service to the Commonwealth and its citizens; and

WHEREAS, Luke Taylor, the Kentucky Technology Students Association Reporter and a student from Scott County High School, represents all career and technical student organization members before this body today;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body recognizes the value of strong career and technical education programs in secondary and postsecondary education institutions to assist young adults in developing the knowledge, skills, and character to become Kentucky's leaders of the future, fulfilling our common goal of improving the social, economic, and civic life of the Commonwealth.

Section 2. This honorable body welcomes Mr. Taylor, and salutes all of the participants of the Kentucky Association for Career and Technical Education Student Organization Leadership Day, February 10, 2004.

Section 3. The Clerk of the House shall send a copy of this resolution to the Kentucky Association of Career and Technical Education, 1044 Wesbend, Frankfort, Kentucky 40601.

There being no objection, **HR 133** was adopted.

Representative Damron moved to suspend the rules to act on a Resolution. Agreed.

Representative Damron moved the adoption of the following **HR 131**:

HR 131, A RESOLUTION honoring the 2003-2004 state officers of the Kentucky FFA Association.

WHEREAS, for over 75 years, the National FFA Organization has brought together students, teachers, and agribusinesses to solidify support for agricultural education; and

WHEREAS, FFA programs provide a practical approach to learning through classroom education in agricultural topics, hands-on supervised agricultural career experience, leadership opportunities, and agricultural skills testing; and

WHEREAS, as the organization prepares to celebrate National FFA Week, February 21-28, the FFA program continues to provide a path to achievement through premier leadership, personal growth, and career success through agricultural education; and

WHEREAS, the Kentucky FFA program has been an integral part of the national FFA organization, with many members of this distinguished body having participated in FFA while in school and having assumed leadership roles in local chapters; and

WHEREAS, the Kentucky FFA program continues to remain vigorous, strong, and worthwhile, boasting 14,000 members in 11 regions throughout the state; and

WHEREAS, vitality of the local FFA chapters in Kentucky can be attributed, in large part, to the state officers who contribute their time from colleges and universities by conducting workshops, ceremonies, and undertaking educational efforts on behalf of FFA;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body recognizes Sara Riggs, Josh McCubbins, Drew White, Eric L. Adams, Lindsay Williams, Jenna Haugen, Brian Hopkins, Tonya Sexton, Adam Johnson, Molly R. Fields, and Justin Bailey, 2003-2004 Kentucky FFA officers and chapter/regional representatives, for their tireless efforts on behalf of FFA.

There being no objection, **HR 131** was adopted.

The roll call was opened for co-sponsors of **HR 131**, and on the roll call the vote was: **Yeas 79.**

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HJR 98, HB 357, HJR 54,** and **82** have been posted for passage in the Regular Orders of the Day for February 11, 2004.

Orders of the Day

HB 100, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved the adoption of the Committee Substitute to **HB 100**. Agreed.

Representative Marzian moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 100**. Agreed.

Representative Weaver moved that **HB 100**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 2**. (See February 10, 2004, roll call on **HB 100** - Appendix.)

HB 100, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Weaver moved that the vote by which **HB 100**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 325, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved the adoption of the Committee Substitute to **HB 325**. Agreed.

Representative Crall moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 325**. Agreed.

Representative L. Clark moved that **HB 325**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 92, Nays 4**. (See February 10, 2004, roll call on **HB 325** - Appendix.)

HB 325, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative L. Clark moved that the vote by which **HB 325**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 163, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Substitute to **HB 163**. Agreed.

Representative Moberly moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 163**. Agreed.

Representative Moberly moved that **HB 163**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 1**. (See February 10, 2004, roll call on **HB 163** - Appendix.)

HB 163, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 163**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 9 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Edmonds moved that **HJR 9** be adopted.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 10, 2004, roll call on **HJR 9** - Appendix.)

HJR 9 was adopted.

Representative Edmonds moved that the vote by which **HJR 9** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 19 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Thompson moved that **HJR 19** be adopted.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 10, 2004, roll call on **HJR 19** - Appendix.)

HJR 19 was adopted.

Representative T. Thompson moved that the vote by which **HJR 19** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 42 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nelson moved that **HJR 42** be adopted.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 10, 2004, roll call on **HJR 42** - Appendix.)

HJR 42 was adopted.

Representative Nelson moved that the vote by which **HJR 42** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 91 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Belcher moved that **HJR 91** be adopted.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 10, 2004, roll call on **HJR 91** - Appendix.)

HJR 91 was adopted.

Representative Belcher moved that the vote by which **HJR 91** was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Coleman moved the adoption of the following **Legislative Citation No. 31**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the members of Youth Leadership Mercer County and welcomes these distinguished individuals to the chambers of the Kentucky House of Representatives during this day of the Regular Session of the 2004 General Assembly. Inasmuch as members in this outstanding program are provided with an opportunity to learn about community development, a forum for networking, a strong foundation for leadership and opportunities for community service, the members of this august body are delighted to join Representative Jack L. Coleman in applauding the members of Youth Leadership Mercer County for taking part in this worthy endeavor; in commending them for participating in this invaluable leadership program; and, in extending best wishes for their continued success and good fortune. Done in Frankfort, Kentucky, this tenth day of February, in the year two thousand and four.

Legislative Citation No. 31 was adopted without objection.

Representative Moberly moved the adoption of the following **Legislative Citation No. 30**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the esteemed members of Leadership Madison County a remarkable program that develops high caliber citizens who are well-informed about the quality of life and the infrastructure of their communities. Inasmuch as Leadership Madison County is a vital link in promoting the overall success of our communities and this fine Commonwealth, this honorable body is pleased to join with Representative Harry Moberly in commending the participants of this outstanding program and graciously welcoming them to the House Chambers during this day's activities of the 2004 Regular Session of the Kentucky General Assembly. Done in Frankfort, Kentucky, this tenth day of February, in the year two thousand and four.

Legislative Citation No. 30 was adopted without objection.

Representative Thomas moved the adoption of the following **Legislative Citation No. 32**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory and honor of Rachel Diann Blevins of Oakland, Kentucky, and joins with Speaker Jody Richards in expressing deepest sympathy to the Blevins Family and all who share in the profound loss on the tragic and untimely passing of this cherished young citizen. The beloved daughter of Chris Thomas Blevins and Kelly Morris Blevins, she is survived by her parents; brother, Meritt Thomas Blevins; maternal grandparents, Kenny and Joyce C. Morris; paternal grandparents, Dr. T. J. and Georgia Blevins; maternal great-grandparents, Gilbert and Mellie Morris and Edith Corders; aunts and uncles, Jill and Chris Hanes, Mia and Greg Morris, Stephanie and Steven Sheeran and Kennetha Grissom; and, a host of other family members, friends and loved ones. A native of Warren County, Kentucky, and a graduate of Bowling Green High School, she was a student at Western Kentucky University and an active member of the Phi Mu Sorority. Rachel Diann Blevins is remembered on this day with profound sadness for her loss and with pride for the goodness, enthusiasm and generosity with which she lived her life and will be forever held dear in the hearts of those who were touched by her remarkable presence. Done in Frankfort, Kentucky, this tenth day of February, in the year two thousand and four.

Legislative Citation No. 32 was adopted without objection.

Representative Thomas moved to suspend the rules to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions

HR 138, by Representatives Thomas and Richards: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Rachel D. Blevins.

Motions, Petitions, and Communications (Continued)

Representative Thomas moved the adoption of the following **HR 138**:

HR 138, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Rachel D. Blevins.

With deepest respect and admiration, we pay homage and tribute to Rachel D. Blevins, and we pause in silent reverence for her soul.

WHEREAS, Rachel D. Blevins was born on July 14, 1984, a native of Warren County, Kentucky, and she prematurely traversed these earthly bounds on February 7, 2004; and

WHEREAS, Rachel D. Blevins was the loving daughter of Chris Thomas Blevins and Kelly Morris Blevins; she was the loving sister of Meritt Thomas Blevins; she was the loving granddaughter of her maternal grandparents, Kenny and Joyce C. Morris, and her paternal grandparents, Dr. T. J. and Georgia Blevins; she was the loving great-granddaughter of her maternal great-grandparents, Gilbert and Mellie Morris; and she was the loving great-granddaughter of her paternal great-grandmother, Edith Corders; she was the loving niece of Jill and Chris Hanes, Mia and Greg Morris, Stephanie and Steven Shoeran, and Kennetha Grissom; and she also leaves behind many friends and sorority sisters; and

WHEREAS, Rachel D. Blevins graduated from Bowling Green High School, and at the time of her passing, she was a student at Western Kentucky University, where she was a member of Phi Mu sorority; and

WHEREAS, a life should be measured by deeds, not years, and Rachel D. Blevins was a young lady who brought happiness to all the lives she touched, and she is worthy of the highest commendation; and

WHEREAS, Rachel D. Blevins was a member of Oakland Baptist Church, where her funeral service is being held on February 11, 2004, with burial in Smiths Grove Cemetery; and a campus memorial service is scheduled for February 13, 2004 in the Van Meter Auditorium of Western Kentucky University; and

WHEREAS, the premature passing of Rachel D. Blevins has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow at the premature passing of Rachel D. Blevins, and extends to her loving family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Rachel D. Blevins.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. and Mrs. Chris Thomas Blevins, 240 Dixie Trace, Oakland, Kentucky 42159.

There being no objection **HR 138** was adopted.

Representative Napier moved to suspend the rules to act on a Resolution. Agreed.

Representative Napier moved the adoption of **HR 139**.

The Speaker ruled that **HR 139** must go through the committee system.

Representative Adkins moved that the rules be suspended for introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 481, by Representatives Dw. Butler and J. Thompson: AN ACT relating to consumer protection.

HB 482, by Representative Nunn: AN ACT relating to provider self-referral restrictions.

HB 483, by Representative Wilkey: AN ACT relating to the Public Service Student Law School Loan Assistance Program and making an appropriation therefor.

HB 484, by Representatives Wayne, L. Clark, Horlander, P. Clark, Hoffman, Gray, Ballard, Adkins, Stein, Westrom, and Hall: AN ACT relating to changes in party affiliation.

HB 485, by Representative De. Butler: AN ACT relating to the Uniform State Building Code.

HB 486, by Representatives Crimm and Riggs: AN ACT relating to economic development and declaring an emergency.

HB 487, by Representative Nunn: AN ACT relating to faith-based initiatives.

HB 488, by Representatives Bruce, Hall, Weaver, Bather, Gooch, A. Smith, Nelson, Collins, Nesler, Gray, Yonts, and Pasley: AN ACT relating to tuition at public postsecondary education institutions and declaring an emergency.

HB 489, by Representatives Damron, Adkins, Stacy, and L. Clark: AN ACT relating to postsecondary institution debt.

HJR 136, by Representative J. Lee: A JOINT RESOLUTION urging the Secretary of the Cabinet for Health and Family Services and the Department for Medicaid Services to implement an Omnibus Medicaid Modernization Program.

HR 137, by Representatives Meeks, Crenshaw, Graham, Simpson, Bather, Nunn, Hoffman, L. Clark, Hall, and Burch: A RESOLUTION recognizing the month of February as Black History Month.

HR 139, by Representative Napier: A RESOLUTION urging the United States Congress to repeal the North American Free Trade Agreement and to end the Free Trade of the Americas negotiations.

HR 140, by Representative Stacy: A RESOLUTION urging the Transportation Cabinet to name the new bridge planned over Elk Fork on Kentucky Route 519 in Morgan County in memory and honor of County Judge William Lykins.

HR 141, by Representative Hoffman: A RESOLUTION adjourning the House of Representatives in loving memory and honor of William Carrick James.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Agriculture and Small Business: **HB 444, HCR 114**

Banking and Insurance: **HJR 128, HB 455, 470**

Elections, Constitutional Amendments, and Intergovernmental Relations: **HB 428, 446, 443, 465**

Health and Welfare: **HB 456**

State Government: **HB 450**

Transportation: **HB 92, 199, 365, 473, HJR 90, 116, HB 93, 304, 384, HJR 69, 107**

Motions, Petitions, and Communications (Continued)

Representative Walton moved that **HB 462** be withdrawn. Agreed.

Representative Collins moved that Floor Amendment No. 2 to **HB 172** be withdrawn. Agreed.

Representative Hall moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Hall moved that he be recorded as voting "yea" on **HB 90** and **359**. Agreed.

Representative Wilkey moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Wilkey moved that he be recorded as voting "yea" on **HB 74, 306, 322,** and **361**. Agreed.

Representative Bather moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Bather moved that he be recorded as voting "yea" on **HCR 32, 31, HR 83, 75, HJR 64, HCR 22, 44, 45, 66, HR 47, 48, 49, 50, 51, 52, HB 8, 350, 361, 322, 306, 74, 319, 195, 22, 108, 269, 189, 273, 258, 283, 126, 37, 263, 15, 21, 253, 116, 295, 19, HR 118, HCR 78, HR 108, 111, HB 7, 6, 97, HCR 24, 23, 5, HR 37, HB 242, 2, 50, 287, 286, 160, 159, 72, 344, 131, 281, 208, 200, HR 101, 36, HCR 26,** and **16**. Agreed.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 260**, by Representative Burch:

HB 260, On page 1, line 4, after "***opinion***" by inserting the following: "***in accordance with Section 6 of this Act***";

On page 1, line 24, after "***opinion***" by inserting the following: "***in accordance with Section 6 of this Act***";

On page 1, line 25, after "***age.***" by deleting: "***Developmental delay may be determined by criteria that includes percentiles or percentages of levels of functioning on standardized measures.***";

On page 2, line 3, after "***opinion***" by inserting the following: "***in accordance with Section 6 of this Act***";

On page 3, line 25, after "***opinion***" by inserting the following: "***in accordance with Section 6 of this Act***";

On page 4, line 1, after "***shall***" by deleting the following: "***consist of standardized, norm-referenced instruments and informed clinical opinion addressing***" and in lieu thereof inserting "***address***";

On page 5, line 3, after "***determined by***" by deleting the following: "***a qualified professional***" and inserting in lieu thereof "***at least two (2) qualified professionals***";

On page 5, line 4, after "***opinion***" by inserting the following: "***in accordance with Section 6 of this Act***";

On page 5, line 4, after "***opinion;***" by deleting "***or***";

On page 5, line 6, after "delay;" by inserting the following: "***or***

(d) The child has a diagnosis of pervasive developmental disorder;";

On page 8, line 10, after "***children are***" by deleting "***making progress***" and inserting in lieu thereof "***achieving identified outcomes***";

On page 9, lines 16 to 18, by removing the brackets and strike through;

On page 9, line 19, before "***Enter***" by removing the brackets and strike through from "[~~(5)~~]";

On page 9, line 21, by deleting "***(5)***" and by removing the brackets and strike through from "[~~(6)~~]";

On page 9, line 23, by deleting "***(6)***" and by removing the brackets and strike through from "[~~(7)~~]";

On page 9, line 27, by deleting "***(7)***" and by removing the brackets and strike through from "[~~(8)~~]";

On page 10, line 3, by deleting "***(8)***" and inserting in lieu thereof "***(9)***";

On page 10, line 6, by deleting "***(9)***" and inserting in lieu thereof "***(10)***" ;

On page 10, by deleting lines 9 to 11 in their entirety and inserting in lieu thereof:

"***(11) Develop, implement, and enforce all provisions of the Kentucky Early Intervention System so that the administration and program are not in conflict with federal statutes and regulations.***";

On page 10, line 12, by deleting "***(11)***" inserting in lieu thereof "***(12)***";

On page 10, line 15, by deleting "***(12)***" and inserting in lieu thereof "***(13)***";

On page 10, line 18, by deleting "***(13) Recruit***" and inserting in lieu thereof

"***(14) Demonstrate efforts to recruit***";

On page 10, line 19, after "***program;***" by deleting "***and***";

On page 10, line 20, by deleting "***(14)***" and inserting in lieu thereof "***(15)***";

On page 10, line 22, after "***Commission***" by inserting the following: "***; and***

(16) Promulgate administrative regulations pursuant to KRS Chapter 13A and in accordance with the work group report required under Section 6 of this Act to establish how informed clinical opinion shall be utilized to determine eligibility in the evaluation and assessment processes.";

On page 11, line 11, after "***priorities***" by inserting "***, resources,***";

On page 12, line 8, after "***coordinator***" by deleting "***from the profession most immediately relevant to the child's or*** *family's needs, or who is otherwise qualified to carry out all applicable responsibilities, who will be responsible for the implementation of the plan and coordination with other agencies and persons*" and inserting in lieu thereof "*and the other members of the individualized family services plan team*";

On page 12, line 13, after "*child*", by deleting "*to preschool services*" and inserting in lieu thereof "*out of the program*";

On page 14, line 8, after "*budget.*", by inserting the following: "*Measures taken to limit program eligibility shall have the lowest priority when making any necessary cost cutting measures to the program.*"; and

On page 14, after line 8, by inserting the following:

"SECTION 6. A NEW SECTION OF KRS 200.650 TO 200.676 IS CREATED TO READ AS FOLLOWS:

(1) The Division of Early Childhood Development, Department of Education, shall convene a work group by July 15, 2004, made up of representatives of the Interagency Coordinating Council subcommittees, a representative of the cabinet, and experienced professionals to develop and make recommendations to the cabinet regarding:

(a) The definition and criteria for use of informed clinical opinion in the evaluation and assessment process;

(b) The implementation of recommended practice and service delivery models that provide quality needed services in a cost effective manner;

(c) The implementation of models of professional development and training as necessary to implement recommended practice and service delivery models; and

(d) Guidelines for implementing cost cutting measures as necessary to stay within the enacted or revised enacted budget.

(2) The work group shall submit a report by October 1, 2004, containing its recommendations to the Interim Joint Committee on Health and Welfare, the Program Review and Investigations Committee, the Office of Early Childhood Development, the cabinet, and the Interagency Coordinating Council.".

Floor Amendment No. 3 to the Committee Substitute to **HB 372**, by Representative Crall:

HB 372, On page 2, line 7, by deleting "*Individuals refusing coverage by an insurer*"; and

On page 2, by deleting lines 8 to 12 in their entirety; and

On page 10, line10, by deleting "*; or*"; and

On pge 10, by deleting all new material on lines 11 to 13.

Floor Amendment No. 4 to the Committee Substitute to **HB 372**, by Representative Crall:

HB 372, On page 5, lines 4 and 5, by deleting "*An insurer who offers coverage to employer-organized associations shall offer to such employer-organized associations*" and inserting in lieu thereof:

"*(a) Effective January 1, 2005, an insurer that offers, renews, or delivers a health benefit plan in Kentucky may offer as an option*"; and

On page 5, after line 8 by inserting:

"*(b) Notwithstanding any other provision of this chapter, an insurer shall not be required to utilize the experience of enrollees of health benefit plans that contain the state mandated insurance benefits specified in this chapter to develop the insurer's index rate for health benefit plans offered, renewed, or delivered under this section.*".

Floor Amendment No. 5 to the Committee Substitute to **HB 372**, by Representative Crall:

HB 372, On page 5, line 27, and on page 6, line 23, and on page 7, line 20, after "*month;*" by adding "*and*"; and

On page 6, lines 1 and 24, and on page 7, line 21, by deleting "*; and*" and inserting in lieu thereof "*.*"; and

On page 6, by deleting lines 2, 3, 25, and 26 in their entirety; and

On page 7, by deleting lines 22 and 23 in their entirety; and

On page 6 after line 13, and on page 7, after line 9, by inserting:

"*(3) An insurer may charge a reasonable fee per page to cover its administrative costs in providing the information requested under this section.*"; and

On page 8 after line 6, by inserting:

"*(3) A health maintenance organization may charge a reasonable fee per page to cover its administrative costs in providing the information requested under this section.*".

Floor Amendment No. 6 to the Committee Substitute to **HB 372**, by Representative Crall:

HB 372, On page 9, by deleting lines 16 to 23 in their entirety.

Floor Amendment No. 1 to the Committee Substitute to **HB 172**, by Representative Collins:

HB 172, On page 27, between lines 17 and 18, insert a new Section 9 to read as follows:

"Section 9. KRS 186.065 is amended to read as follows:

(1) Every state-owned motor vehicle, except as provided in subsection (2), shall have an official license plate. Except as provided in subsections (2), (3), and (4) on one (1) door on each side of every state-owned vehicle shall be the great seal of the Commonwealth and the words "For Official Use Only."

(2) The Cabinets of Revenue, Transportation, Justice***, Public Protection and Regulation,*** and the Attorney General may authorize registration under KRS 186.020 and be issued regular license plates for vehicles used for investigatory purposes. The Administrative Office of the Courts may authorize registration under KRS 186.020 and be issued regular license plates for vehicles used by justices and judges of the Supreme Court and Court of Appeals.

(3) The Governor and the Lieutenant Governor may each use one (1) state-owned motor vehicle on which it shall not be necessary to have the state seal or the words "For Official Use Only."

(4) The Justices and Judges of the Supreme Court and Court of Appeals may each use state-owned motor vehicles on which it shall not be necessary to have the state seal or the words "For Official Use Only.""; and

On page 27, line 18, by renumbering "Section 9" as "Section 10".

Floor Amendment No. 2 Title to the Committee Substitute to **HB 172**, by Representative Collins:

HB 172, On page 1, amend the title to read as follows:

"AN ACT relating to license plates.".

Floor Amendment No. 3 Title to **HB 172**, by Representative Collins:

HB 172, On page 1, amend the title to read as follows:

"AN ACT relating to license plates.".

Floor Amendment No. 1 to the Committee Substitute to **HB 369**, by Representative Belcher:

HB 369, On page 1, line 13, by inserting after "***request***" "***,unless cause for delay can be shown for inclement weather,***"; and

On page 1, line 20, by inserting after "***inspection***" "***,unless cause for delay can be shown for inclement weather,***"; and

On page 3, line 7, by deleting "***regardless of weather conditions***" and inserting "***unless cause for delay can be shown for inclement weather***" in lieu thereof; and

On page 3, line 25, by inserting after "***department***" "***,unless cause for delay can be shown for inclement weather***"; and

On page 5, line 7, by inserting after "***evaluation,***" "***unless cause for delay can be shown for inclement weather,***"; and

On page 5, line 15, by inserting after "***days,***" "***unless cause for delay can be shown for inclement weather,***".

Floor Amendment No. 7 to the Committee Substitute to **HB 372**, by Representative T. Thompson:

HB 372, On page 5, line 4, after "***coverage to***" by inserting "***small employers, associations, or***"; and

On page 5, line 4, after "***shall***" by inserting "***,upon request,***"; and

On page 5, line 5, by deleting "***such employer-organized associations***" and inserting in lieu thereof "***any such small employer, association, or employer-organized association***"; and

On page 5, line 6, by deleting "***all designated***" and inserting in lieu thereof "***any***"; and

On page 5, line 7, after "***include***" by inserting "***coverage for diabetes as provided in KRS 304.17A-148 and***"; and

On page 5, line 9, by deleting "***limited***" and inserting in lieu thereof "***modified***"; and

On page 6, lines 3 and 26, and on page 7 line 23, after "***request.***" by adding "***However, nothing in this section shall be construed to require the insurer to deliver confidential network pricing information.***"; and

On page 6, line 18, by deleting "***information requested***" and inserting in lieu thereof "***the information relating to its***

health benefit plan that has been requested"; and

On page 7, line 15, by deleting "***information requested***" and inserting in lieu thereof "***the information relating to its health benefit plan that has been requested***"; and

On page 8, line 15, after "***small group,***" by inserting "***association, employer-organized association,***"; and

On page 10, line 11, by deleting "***enrolled or***"; and

On page 10, line 13, after "***plan***" by inserting "***and the individual has voluntarily waived the association group coverage pursuant to this chapter***"; and

On page 11, after line 18, by inserting:

"Section 9. This Act may be cited as the Small Business Health Insurance Relief Act of 2004.".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 264, Representative Barrows

HB 277, Representative Brinkman

HB 330, Representative Brinkman

HB 339, Representative Graham

HB 390, Representative Webb

HB 404, Representative Brinkman

HB 418, Representative Wilkey

HB 470, Representative Nunn

HJR 54, Representative Palumbo

HJR 98, Representative J. Arnold

The following member filed a request to have his name withdrawn as a co-sponsor of a Bill:

HB 462, Representative Siler

Announcements

The following meetings were announced:

Government Contract Review Committee: upon adjournment, Room 149

Budget Review Subcommittee on Human Resources: 30 minutes upon adjournment, Wednesday, February 11, 2004

Committee on Education: Wednesday, February 11, 2004, 8:27 a.m.

Budget Review Subcommittee on Economic Development and Tourism, Natural Resources and Environmental Protection: 30 minutes upon adjournment

Budget Review Subcommittee on General Government, Finance, and Public Protection: 12 noon, Wednesday, February 11, 2004

Budget Review Subcommittee on Transportation: 10 a.m., Room 129

Budget Review Subcommittee on Justice and Judiciary: 30 minutes upon adjournment, Room 131

Committee on Tourism Development and Energy: Wednesday, February 11, 2004, 8:29 a.m.

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 2:00 p.m., Wednesday, February 11, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 2:00 p.m., Wednesday, February 11, 2004, was adopted by voice vote.

WEDNESDAY, FEBRUARY 11, 2004

TWENTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Mr. Cliff Howard of Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Bather and Haydon.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 10, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Burch moved that the rules be suspended to grant floor privileges to special guests. Agreed.

Mr. and Mrs. Cliff Howard portrayed Abe and Mary Lincoln.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **HB 481**

Economic Development: **HB 486**

Education: **HB 483, 488, 489**

Elections, Constitutional Amendments, and Intergovernmental Relations: **HB 484**

Health and Welfare: **HB 482, HJR 136**

Labor and Industry: **HR 139**

Local Government: **HB 485**

State Government: **HB 487**

Transportation: **HR 140**

House Floor: **HR 137, 141**

Report of Committees

The Committee on Education reported **HB 81**, with Committee Substitute attached thereto, **HB 176**, with Committee Substitute attached thereto, **HB 178**, with Committee Substitute attached thereto, and **HB 434**, with Committee Substitute attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 81, AN ACT relating to school facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.345 is amended to read as follows:

(1) For the purpose of this section:

(a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school;

(b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal or head teacher and is not a program or part of another school. The term "school" does not include district-operated schools that are:

1. Exclusively vocational-technical, special education, or preschool programs;
2. Instructional programs operated in institutions or schools outside of the district; or
3. Alternative schools designed to provide services to at-risk populations with unique needs;

(c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers; and

(d) "Parent" means:

1. A parent, stepparent, or foster parent of a student; or
2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

(2) Each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:

(a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. A parent representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative shall not be a local board member or a board member's spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees;

(b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. A teacher elected to a school council shall not be involuntarily transferred during his or her term of office. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected. The principal or head teacher shall be the chair of the school council.

2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:

a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and

b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty;

(c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection;

(d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy;

(e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply;

(f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals;

(g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. The school council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment;

(h) From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council, consistent with subsection (2)(i)10. of this section. The superintendent may forward to the school council the names of qualified applicants who have pending certification from the Education Professional Standards Board based on recent completion of preparation requirements, out-of-state preparation, or alternative routes to certification pursuant to KRS 161.028 and 161.048. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. When a vacancy in the school principalship occurs, the school council shall receive training in recruitment and interviewing techniques prior to carrying out the process of selecting a principal. The council shall select the trainer to deliver the training. Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. Applicants subsequently employed shall provide evidence that they are certified prior to assuming the duties of a position in accordance with KRS 161.020. The superintendent shall provide additional applicants upon request when qualified applicants are available;

(i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment and curriculum development;
2. Assignment of all instructional and noninstructional staff time;
3. Assignment of students to classes and programs within the school;
4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
5. Determination of use of school space during the school day***, except that priority shall be given to students with disabilities, preschool, and primary students in the assignment of ground floor classroom space***;
6. Planning and resolution of issues regarding instructional practices;
7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;
8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;
9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal; and
10. Procedures to assist the council with consultation in the selection of personnel by the principal, including, but not limited to, meetings, timelines, interviews, review of written applications, and review of references. Procedures shall address situations in which members of the council are not available for consultation; and

(j) Each school council shall annually review data on its students' performance as shown by the Commonwealth Accountability Testing System. The data shall include but not be limited to information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, and participation in the federal free and reduced price lunch program. After completing the review of data, each school council, with the involvement of parents, faculty, and staff, shall develop and adopt a plan to ensure that each student makes progress toward meeting the goals set forth in KRS 158.645 and 158.6451(1)(b) by April of each year and submit the plan to the superintendent and local board of education for review as described in KRS 160.340. The Kentucky Department of Education shall provide each school council the data needed to complete the review required by this paragraph no later than November 1 of each year. If a school does not have a council, the review shall be completed by the principal with the involvement of parents, faculty, and staff.

(3) The policy adopted by the local board to implement school-based decision making shall also address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;

(d) Professional development plans developed pursuant to KRS 156.095;

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies;

(h) Requirements for record keeping by the school council; and

(i) A process for appealing a decision made by a school council.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school meeting its goal as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making no later than one hundred twenty (120) days after the beginning of the service year for which they are elected to serve. Experienced members may participate in the training for new members to fulfill their training requirement. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education. By November 1 of each year, the principal through the local superintendent shall forward to the Department of Education the names and addresses of each council member and verify that the required training has been completed. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.

(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making, including but not limited to a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the commissioner of education and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

(8) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development in compliance with requirements specified in KRS 156.095, except as provided in KRS 158.649. School councils of small schools shall be encouraged to work with other school councils to maximize professional development opportunities.

(9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.

(b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.

(c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.

(d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

Section 2. KRS 227.220 is amended to read as follows:

(1) The state fire marshal shall enforce or aid in the enforcement of all laws, administrative regulations, and ordinances of the state and its political subdivisions relating to fire loss as defined in KRS 227.200:

(a) The prevention or reduction of loss by fire or by other hazard or risk insured by property or casualty insurance companies doing business in this state, except as to disability insurance and workers' compensation, and shall enforce any other regulations or methods adopted for the prevention of loss from such hazards or risks in order to promote the safety of persons or property;

(b) The manufacture, transportation, storage, sale, or use of combustibles, explosives, and hazardous materials or equipment;

(c) The design, construction, and maintenance of property which has a direct bearing on safety to life and property;

(d) The construction, installation, maintenance, or equipment of fire alarm systems, fire protection and extinguishing equipment, and fire escapes and other means of access to or exit from property; and

(e) Arson and related offenses.

(2) The chief state building official shall enforce and administer all applicable provisions of the Kentucky Building Code, including all the provisions designed for the prevention of fire loss, and shall have all the powers and duties awarded by KRS Chapter 198B and the Kentucky Building Code.

(3) The state fire marshal is authorized to:

(a) Investigate the cause, origin, and circumstances of fires and explosions for the purpose of detecting and suppressing arson and related offenses, or for the purpose of minimizing or preventing fire loss;

(b) Supervise and make periodic inspections of all property within the state, and assist cities having fire departments in making like periodic inspections of all property in cities, except occupied private dwellings;

(c) Issue and enforce reasonable emergency orders and orders in accordance with KRS 227.330 for the prevention of fire loss, and for the adoption, approval, and installation of safety measures, remodeling, and equipment as will minimize fire loss;

(d) Provide technical and engineering advice and assistance to state and local governmental agencies in relation to fire prevention or fire protection;

(e) Direct and assist owners of educational institutions, places of public assembly, institutional buildings, public buildings, factories, business buildings, or other places where persons congregate, in the instruction of fire prevention, and the holding of fire drills;

(f) Conduct fire prevention and educational campaigns;

(g) Conduct examinations into the cause, origin, or circumstances of fire losses;

(h) Hold administrative hearings in accordance with the KRS Chapter 13B, as may be required by law or deemed by the state fire marshal necessary or desirable as to any matter within the scope of this chapter. All administrative hearings shall be public, unless the state fire marshal, or an authorized designee, determines that a private hearing would be in the public interest, in which case, and only with the consent of all parties to the hearing, the hearing shall be private;

(i) Direct research in the field of fire protection and accept gifts and grants for these purposes; and

(j) Recommend curricula for advanced courses and seminars in fire science training in colleges and institutions of higher education.

(4) The state fire marshal shall receive and investigate complaints regarding the inappropriate placement of classrooms for students with disabilities, preschool students, or primary students in educational institutions. The state fire marshal shall notify the chairperson of the school-based decision making council or, if no council exists, the building level administrator of the specific findings and shall prescribe the required corrective action for any violations. Failure to comply will result in actions authorized under subsections (1) and (2) of KRS 227.336.

The Committee Substitute to **HB 81** is as follows:

HB 81, AN ACT relating to school facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.345 is amended to read as follows:

(1) For the purpose of this section:

(a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school;

(b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal or head teacher and is not a program or part of another school. The term "school" does not include district-operated schools that are:

1. Exclusively vocational-technical, special education, or preschool programs;
2. Instructional programs operated in institutions or schools outside of the district; or
3. Alternative schools designed to provide services to at-risk populations with unique needs;

(c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers; and

(d) "Parent" means:

1. A parent, stepparent, or foster parent of a student; or
2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

(2) Each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:

(a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. A parent representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative shall not be a local board member or a board member's spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees;

(b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. A teacher elected to a school council shall not be involuntarily transferred during his or her term of office. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected. The principal or head teacher shall be the chair of the school council.

2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:

a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and

b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty;

(c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection;

(d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy;

(e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply;

(f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals;

(g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. The school council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment;

(h) From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council, consistent with subsection (2)(i)10. of this section. The superintendent may forward to the school council the names of qualified applicants who have pending certification from the Education Professional Standards Board based on recent completion of preparation requirements, out-of-state preparation, or alternative routes to certification pursuant to KRS 161.028 and 161.048. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. When a vacancy in the school principalship occurs, the school council shall receive training in recruitment and interviewing techniques prior to carrying out the process of selecting a principal. The council shall select the trainer to deliver the training. Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. Applicants subsequently employed shall provide evidence that they are certified prior to assuming the duties of a position in accordance with KRS 161.020. The superintendent shall provide additional applicants upon request when qualified applicants are available;

(i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment and curriculum development;
2. Assignment of all instructional and noninstructional staff time;
3. Assignment of students to classes and programs within the school;
4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
5. Determination of use of school space during the school day*. Rooms normally occupied by preschool, kindergarten, or first year primary students shall not be located above or below the level of exit discharge, and rooms normally occupied by second year primary students shall not be located more than one story above the level of exit discharge, except that rooms or areas located on other floor levels may be used where provided with independent means of egress dedicated for use by the preschool, kindergarten, first year primary, or second year primary students. Schools shall insure that an exceptional child and youth as defined in KRS 157.200 has safe means of egress in the event of an emergency from the rooms or areas normally occupied by the student, taking into account the category and magnitude of the exceptionality of the student*;
6. Planning and resolution of issues regarding instructional practices;
7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;
8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;
9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal; and
10. Procedures to assist the council with consultation in the selection of personnel by the principal, including, but not limited to, meetings, timelines, interviews, review of written applications, and review of references. Procedures shall address situations in which members of the council are not available for consultation; and

(j) Each school council shall annually review data on its students' performance as shown by the Commonwealth Accountability Testing System. The data shall include but not be limited to information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, and participation in the federal free and reduced price lunch program. After completing the review of data, each school council, with the involvement of parents, faculty, and staff, shall develop and adopt a plan to ensure that each student makes progress toward meeting the goals set forth in KRS 158.645 and 158.6451(1)(b) by April of each year and submit the plan to the superintendent and local board of education for review as described in KRS

160.340. The Kentucky Department of Education shall provide each school council the data needed to complete the review required by this paragraph no later than November 1 of each year. If a school does not have a council, the review shall be completed by the principal with the involvement of parents, faculty, and staff.

(3) The policy adopted by the local board to implement school-based decision making shall also address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;

(d) Professional development plans developed pursuant to KRS 156.095;

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies;

(h) Requirements for record keeping by the school council; and

(i) A process for appealing a decision made by a school council.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school meeting its goal as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making no later than one hundred twenty (120) days after the beginning of the service year for which they are elected to serve. Experienced members may participate in the training for new members to fulfill their training requirement. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education. By November 1 of each year, the principal through the local superintendent shall forward to the Department of Education the names and addresses of each council member and verify that the required training has been completed. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.

(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making, including but not limited to a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the commissioner of education and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

(8) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development in compliance with requirements specified in KRS 156.095, except as provided in KRS 158.649. School councils of small schools shall be encouraged to work with other school councils to maximize professional development opportunities.

(9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of

school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.

(b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.

(c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.

(d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

Section 2. KRS 227.220 is amended to read as follows:

(1) The state fire marshal shall enforce or aid in the enforcement of all laws, administrative regulations, and ordinances of the state and its political subdivisions relating to fire loss as defined in KRS 227.200:

(a) The prevention or reduction of loss by fire or by other hazard or risk insured by property or casualty insurance companies doing business in this state, except as to disability insurance and workers' compensation, and shall enforce any other regulations or methods adopted for the prevention of loss from such hazards or risks in order to promote the safety of persons or property;

(b) The manufacture, transportation, storage, sale, or use of combustibles, explosives, and hazardous materials or equipment;

(c) The design, construction, and maintenance of property which has a direct bearing on safety to life and property;

(d) The construction, installation, maintenance, or equipment of fire alarm systems, fire protection and extinguishing equipment, and fire escapes and other means of access to or exit from property; and

(e) Arson and related offenses.

(2) The chief state building official shall enforce and administer all applicable provisions of the Kentucky Building Code, including all the provisions designed for the prevention of fire loss, and shall have all the powers and duties awarded by KRS Chapter 198B and the Kentucky Building Code.

(3) The state fire marshal is authorized to:

(a) Investigate the cause, origin, and circumstances of fires and explosions for the purpose of detecting and suppressing arson and related offenses, or for the purpose of minimizing or preventing fire loss;

(b) Supervise and make periodic inspections of all property within the state, and assist cities having fire departments in making like periodic inspections of all property in cities, except occupied private dwellings;

(c) Issue and enforce reasonable emergency orders and orders in accordance with KRS 227.330 for the prevention of fire loss, and for the adoption, approval, and installation of safety measures, remodeling, and equipment as will minimize fire loss;

(d) Provide technical and engineering advice and assistance to state and local governmental agencies in relation to fire prevention or fire protection;

(e) Direct and assist owners of educational institutions, places of public assembly, institutional buildings, public buildings, factories, business buildings, or other places where persons congregate, in the instruction of fire prevention, and the holding of fire drills;

(f) Conduct fire prevention and educational campaigns;

(g) Conduct examinations into the cause, origin, or circumstances of fire losses;

(h) Hold administrative hearings in accordance with the KRS Chapter 13B, as may be required by law or deemed by the state fire marshal necessary or desirable as to any matter within the scope of this chapter. All administrative hearings shall be public, unless the state fire marshal, or an authorized designee, determines that a private hearing would be in the public interest, in which case, and only with the consent of all parties to the hearing, the hearing shall be private;

(i) Direct research in the field of fire protection and accept gifts and grants for these purposes; and

(j) Recommend curricula for advanced courses and seminars in fire science training in colleges and institutions of higher education.

(4) The state fire marshal shall receive and investigate complaints regarding the inappropriate placement of classrooms for students with disabilities, preschool students, or primary students in educational institutions. The state fire marshal shall notify the chairperson of the school-based decision making council or, if no council exists, the building level administrator of the specific findings and shall prescribe the required corrective action for any violations. Failure to comply will result in actions authorized under subsections (1) and (2) of KRS 227.336.

HB 176, AN ACT relating to school accountability.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.6455 is amended to read as follows:

It is the intent of the General Assembly that schools succeed with all students and receive the appropriate consequences in proportion to that success.

(1) (a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish a system for identifying and rewarding successful schools. A reward shall be distributed to successful schools based on the number of full-time, part-time, and itinerant certified staff employed in the school on the last working day of the year of the reward to be used for school purposes as determined by the school council or, if none exists, the principal. The Kentucky Board of Education shall identify reports, paperwork requirements, and administrative regulations from which high performing schools shall be exempt.

(b) Effective July 1, 2006, the Kentucky Board of Education shall reward schools that exceed their improvement goal and have an annual average dropout rate below five percent (5%).

(2) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate by administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A the formula for a school accountability index to classify schools every two (2) years based on whether they have met their threshold level for school improvement, with school years 1998-2000 serving as the baseline. The formula shall reflect the school goals described in KRS 158.6451, except there shall be no measurement of the goals included in subsection (1)(b)3. and (1)(b)4. ***A student's test scores shall be counted in the accountability index for the school when the student is enrolled in the school for at least one hundred (100) days of the school year prior to the beginning of the statewide testing period. A student's test scores shall be counted in the accountability index for the state when the student is enrolled in a school for less than one hundred (100) days of the school year prior to the beginning of the statewide testing period.***

(3) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish appropriate consequences for schools failing to meet their threshold. The consequences shall be designed to improve teaching and learning and may include, but not be limited to:

(a) A scholastic audit process under subsection (4) of this section to determine the appropriateness of a school's classification and to recommend needed assistance;

(b) School improvement plans;

(c) Eligibility to receive Commonwealth school improvement funds under KRS 158.805;

(d) Education assistance from highly skilled certified staff under KRS 158.782;

(e) Evaluation of school personnel; and

(f) Student transfer to successful schools.

(4) (a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A establishing the guidelines for conducting scholastic audits, which shall include the process for:

1. Appointing and training team members. The team shall include at least a highly skilled certified educator under KRS 158.782, a teacher, a principal or other local district administrator, a parent, and a university faculty member;

2. Reviewing a school's learning environment, efficiency, and academic performance of students and the quality of the school council's data analysis and planning in accordance with KRS 160.345(2)(j);

3. Evaluating each certified staff member assigned to the school. Only certified members of the audit team shall evaluate personnel; and

4. Making a recommendation to the Kentucky Board of Education about the appropriateness of a school's classification and a recommendation concerning the assistance required by the school to improve teaching and learning.

(b) For information purposes, the board shall also conduct scholastic audits in a sample of schools that achieved their goal and report to the public on the resulting findings regarding each aspect of the schools' operations required under subparagraph 2. of paragraph (a) of this subsection.

(5) (a) Notwithstanding subsections (2), (3), and (4) of this section and KRS 158.645 to 158.805, the Kentucky Board of Education, after receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, shall promulgate an administrative regulation in conformity with the provisions of KRS 158.6471 and 158.6472 and in accordance with KRS Chapter 13A, establishing a formula for school accountability and a school improvement goal for each school for the 1998-1999 and 1999-2000 school years, with the 1996-97 and 1997-98 school years serving as the baseline. The formula shall be based on the academic and nonacademic components that are administered in a consistent manner during the four (4) year period.

(b) 1. The Kentucky Board of Education shall reward schools that exceed their improvement goal and have an annual average dropout rate below eight percent (8%).

2. Schools failing to improve as identified by the board shall be reviewed by a scholastic audit team appointed by the state board under subsection (4) of this section. The audit shall not include a formal evaluation of each certified staff member. The team shall determine whether the school shall have highly skilled education assistance for advisory purposes. All schools failing to achieve their goal shall develop a school improvement plan and shall be eligible for school improvement funds under KRS 158.805.

(6) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education may promulgate by administrative regulation, in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, a system of district accountability that includes establishing a formula for accountability, goals for improvement over a two (2) year period, rewards for leadership in improving teaching and learning in the district, and consequences that address the problems and provide assistance when the district fails to achieve its goals set by the board.

(7) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, to establish a process whereby a school shall be allowed to appeal a performance judgment which it considers grossly unfair. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B. The state board may adjust a performance judgment on appeal when evidence of highly unusual circumstances warrants the conclusion that the performance judgment is based on fraud or a mistake in computations, is arbitrary, is lacking any reasonable basis, or when there are significant new circumstances occurring during the biennial assessment period which are beyond the control of the school.

The Committee Substitute to **HB 176** is as follows:

HB 176, AN ACT relating to school accountability.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.6455 is amended to read as follows:

It is the intent of the General Assembly that schools succeed with all students and receive the appropriate consequences in proportion to that success.

(1) (a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish a system for identifying and rewarding successful schools. A reward shall be distributed to successful schools based on the number of full-time, part-time, and itinerant certified staff employed in the school on the last working day of the year of the reward to be used for school purposes as determined by the school council or, if none exists, the principal. The Kentucky Board of Education shall identify reports, paperwork requirements, and administrative regulations from which high performing schools shall be exempt.

(b) Effective July 1, 2006, the Kentucky Board of Education shall reward schools that exceed their improvement goal and have an annual average dropout rate below five percent (5%).

(2) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate by administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A the formula for a school accountability index to classify schools every two (2) years based on whether they have met their threshold level for school improvement, with school years 1998-2000 serving as the baseline. The formula shall reflect the school goals described in KRS 158.6451, except there shall be no measurement of the goals included in subsection (1)(b)3. and (1)(b)4.

(3) *A student's test scores shall be counted in the accountability index of:*

(a) 1. The school in which the student is currently enrolled if the student has been enrolled in that school for at least one hundred (100) days of the school year prior to the beginning of the statewide testing period; or

2. The school in which the student was previously enrolled if the student was enrolled in that school for at least one hundred (100) days of the school year prior to the beginning of the statewide testing period; and

(b) The school district if the student is enrolled in the district for at least one hundred (100) days of the school year prior to the beginning of the statewide testing period; and

(c) The state if the student is enrolled in a Kentucky public school prior to the beginning of the statewide testing period.

(4) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish appropriate consequences for schools failing to meet their threshold. The consequences shall be designed to improve teaching and learning and may include, but not be limited to:

(a) A scholastic audit process under subsection (4) of this section to determine the appropriateness of a school's classification and to recommend needed assistance;

(b) School improvement plans;

(c) Eligibility to receive Commonwealth school improvement funds under KRS 158.805;

(d) Education assistance from highly skilled certified staff under KRS 158.782;

(e) Evaluation of school personnel; and

(f) Student transfer to successful schools.

(5)[~~(4)~~] (a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A establishing the guidelines for conducting scholastic audits, which shall include the process for:

1. Appointing and training team members. The team shall include at least a highly skilled certified educator under KRS 158.782, a teacher, a principal or other local district administrator, a parent, and a university faculty member;

2. Reviewing a school's learning environment, efficiency, and academic performance of students and the quality of the school council's data analysis and planning in accordance with KRS 160.345(2)(j);

3. Evaluating each certified staff member assigned to the school. Only certified members of the audit team shall evaluate personnel; and

4. Making a recommendation to the Kentucky Board of Education about the appropriateness of a school's classification and a recommendation concerning the assistance required by the school to improve teaching and learning.

(b) For information purposes, the board shall also conduct scholastic audits in a sample of schools that achieved their goal and report to the public on the resulting findings regarding each aspect of the schools' operations required under subparagraph 2. of paragraph (a) of this subsection.

(6)[~~(5)~~] (a) Notwithstanding subsections (2), (3), and (4) of this section and KRS 158.645 to 158.805, the Kentucky Board of Education, after receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, shall promulgate an administrative regulation in conformity with the provisions of KRS 158.6471 and 158.6472 and in accordance with KRS Chapter 13A, establishing a formula for school accountability and a school improvement goal for each school for the 1998-1999 and 1999-2000 school years, with the 1996-97 and 1997-98 school years serving as the baseline. The formula shall be based on the academic and nonacademic components that are administered in a consistent manner during the four (4) year period.

(b) 1. The Kentucky Board of Education shall reward schools that exceed their improvement goal and have an annual average dropout rate below eight percent (8%).

2. Schools failing to improve as identified by the board shall be reviewed by a scholastic audit team appointed by the state board under subsection (4) of this section. The audit shall not include a formal evaluation of each certified staff member. The team shall determine whether the school shall have highly skilled education assistance for advisory purposes. All schools failing to achieve their goal shall develop a school improvement plan and shall be eligible for school improvement funds under KRS 158.805.

(7)[~~(6)~~] After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education may promulgate by administrative regulation, in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, a system of district accountability that includes establishing a formula for accountability, goals for improvement over a two (2) year period, rewards for leadership in improving teaching and learning in the district, and consequences that address the problems and provide assistance when the district fails to achieve its goals set by the board.

(8)[~~(7)~~] After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, to establish a process whereby a school shall be allowed to appeal a performance judgment which it considers grossly unfair. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B. The state board may adjust a performance judgment on appeal when evidence of highly unusual circumstances warrants the conclusion that the performance judgment is based on fraud or a mistake in computations, is arbitrary, is lacking any reasonable basis, or when there are significant new circumstances occurring during the biennial assessment period which are beyond the control of the school.

HB 178, AN ACT relating to student dropouts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.145 is amended to read as follows:

(1) The General Assembly hereby finds that:

(a) Little progress has been made in reducing the state's student dropout rate;

(b) The number of school dropouts in Kentucky is unacceptable;

(c) The factors, such as lack of academic success, poor school attendance, lack of parental support and encouragement, low socioeconomic status, poor health, child abuse, drug and alcohol addictions, alienation from school and community, and other factors that are associated with an increased probability of students dropping out of school, occur long before the end of compulsory school age;

(d) Students who drop out of school before graduation are less likely to have the basic capacities as defined in KRS 158.645 and the skills as defined in KRS 158.6451;

(e) The number of school dropouts seriously interferes with Kentucky's ability to develop and maintain a well-educated and highly trained workforce;

(f) The effects of students dropping out of school can be felt throughout all levels of society and generations in increased unemployment and underemployment, reduced personal and family incomes, increased crime, decreased educational, social, emotional, and physical well-being, and in increased needs for government services; and

(g) The positive reduction in school dropouts can only be achieved by comprehensive intervention and prevention strategies.

(2) The General Assembly declares on behalf of the people of the Commonwealth the following goals to be achieved by the year 2006:

(a) The statewide annual average school dropout rate will be cut by fifty percent (50%) of what it was in the year 2000*.* ***All students who drop out of school during a school year shall be included in the statewide annual average school dropout rate***;

(b) No school will have an annual dropout rate that exceeds five percent (5%); and

(c) Each county will have thirty percent (30%) fewer adults between the ages of sixteen (16) and twenty-four (24) without a high school diploma or GED than the county had in the year 2000.

Section 2. KRS 158.6455 is amended to read as follows:

It is the intent of the General Assembly that schools succeed with all students and receive the appropriate consequences in proportion to that success.

(1) (a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish a system for identifying and rewarding successful schools. A reward shall be distributed to successful schools based on the number of full-time, part-time, and itinerant certified staff employed in the school on the last working day of the year of the reward to be used for school purposes as determined by the school council or, if none exists, the principal. The Kentucky Board of Education shall identify reports, paperwork requirements, and administrative regulations from which high performing schools shall be exempt.

(b) Effective July 1, 2006, the Kentucky Board of Education shall reward schools that exceed their improvement goal and have an annual average dropout rate below five percent (5%). ***A student shall not be included in a school's annual average dropout rate if the student is enrolled and making satisfactory progress in the General Educational Development (GED) program. A student who does not complete the General Educational Development (GED) program within one (1) year of dropping out of school shall be counted in the school's next annual average dropout rate.***

(2) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate by administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A the formula for a school accountability index to classify schools every two (2) years based on whether they have met their threshold level for school improvement, with school years 1998-2000 serving as the baseline. The formula shall reflect the school goals described in KRS 158.6451, except there shall be no measurement of the goals included in subsection (1)(b)3. and (1)(b)4.

(3) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish appropriate consequences for schools failing to meet their threshold. The consequences shall be designed to improve teaching and learning and may include, but not be limited to:

(a) A scholastic audit process under subsection (4) of this section to determine the appropriateness of a school's classification and to recommend needed assistance;

(b) School improvement plans;

(c) Eligibility to receive Commonwealth school improvement funds under KRS 158.805;

(d) Education assistance from highly skilled certified staff under KRS 158.782;

(e) Evaluation of school personnel; and

(f) Student transfer to successful schools.

(4) (a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A establishing the guidelines for conducting scholastic audits, which shall include the process for:

1. Appointing and training team members. The team shall include at least a highly skilled certified educator under KRS 158.782, a teacher, a principal or other local district administrator, a parent, and a university faculty member;

2. Reviewing a school's learning environment, efficiency, and academic performance of students and the quality of the school council's data analysis and planning in accordance with KRS 160.345(2)(j);

3. Evaluating each certified staff member assigned to the school. Only certified members of the audit team shall evaluate personnel; and

4. Making a recommendation to the Kentucky Board of Education about the appropriateness of a school's classification and a recommendation concerning the assistance required by the school to improve teaching and learning.

(b) For information purposes, the board shall also conduct scholastic audits in a sample of schools that achieved their goal and report to the public on the resulting findings regarding each aspect of the schools' operations required under subparagraph 2. of paragraph (a) of this subsection.

(5) (a) Notwithstanding subsections (2), (3), and (4) of this section and KRS 158.645 to 158.805, the Kentucky Board of Education, after receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, shall promulgate an administrative regulation in conformity with the provisions of KRS 158.6471 and 158.6472 and in accordance with KRS Chapter 13A, establishing a formula for school accountability and a school improvement goal for each school for the 1998-1999 and 1999-2000 school years, with the 1996-97 and 1997-98 school years serving as the baseline. The formula shall be based on the academic and nonacademic components that are administered in a consistent manner during the four (4) year period.

(b) 1. The Kentucky Board of Education shall reward schools that exceed their improvement goal and have an annual average dropout rate below eight percent (8%). ***A student shall not be included in a school's annual average dropout rate if the student is enrolled and making satisfactory progress in the General Educational Development (GED) program. A student who does not complete the General Educational Development (GED) program within one (1) year of dropping out of school shall be counted in the school's next annual average dropout rate.***

2. Schools failing to improve as identified by the board shall be reviewed by a scholastic audit team appointed

by the state board under subsection (4) of this section. The audit shall not include a formal evaluation of each certified staff member. The team shall determine whether the school shall have highly skilled education assistance for advisory purposes. All schools failing to achieve their goal shall develop a school improvement plan and shall be eligible for school improvement funds under KRS 158.805.

(6) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education may promulgate by administrative regulation, in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, a system of district accountability that includes establishing a formula for accountability, goals for improvement over a two (2) year period, rewards for leadership in improving teaching and learning in the district, and consequences that address the problems and provide assistance when the district fails to achieve its goals set by the board.

(7) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, to establish a process whereby a school shall be allowed to appeal a performance judgment which it considers grossly unfair. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B. The state board may adjust a performance judgment on appeal when evidence of highly unusual circumstances warrants the conclusion that the performance judgment is based on fraud or a mistake in computations, is arbitrary, is lacking any reasonable basis, or when there are significant new circumstances occurring during the biennial assessment period which are beyond the control of the school.

The Committee Substitute to **HB 178** is as follows:

HB 178, AN ACT relating to student dropouts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.145 is amended to read as follows:

(1) The General Assembly hereby finds that:

(a) Little progress has been made in reducing the state's student dropout rate;

(b) The number of school dropouts in Kentucky is unacceptable;

(c) The factors, such as lack of academic success, poor school attendance, lack of parental support and encouragement, low socioeconomic status, poor health, child abuse, drug and alcohol addictions, alienation from school and community, and other factors that are associated with an increased probability of students dropping out of school, occur long before the end of compulsory school age;

(d) Students who drop out of school before graduation are less likely to have the basic capacities as defined in KRS 158.645 and the skills as defined in KRS 158.6451;

(e) The number of school dropouts seriously interferes with Kentucky's ability to develop and maintain a well-educated and highly trained workforce;

(f) The effects of students dropping out of school can be felt throughout all levels of society and generations in increased unemployment and underemployment, reduced personal and family incomes, increased crime, decreased educational, social, emotional, and physical well-being, and in increased needs for government services; and

(g) The positive reduction in school dropouts can only be achieved by comprehensive intervention and prevention strategies.

(2) The General Assembly declares on behalf of the people of the Commonwealth the following goals to be achieved by the year 2006:

(a) The statewide annual average school dropout rate will be cut by fifty percent (50%) of what it was in the year 2000***. All students who drop out of a school during a school year and all students who have not graduated, fail to enroll in the school for the following school year, and do not transfer to another school, shall be included in the statewide annual average school dropout rate, except as provided in subsection (1)(b) of Section 2 of this Act***;

(b) No school will have an annual dropout rate that exceeds five percent (5%); and

(c) Each county will have thirty percent (30%) fewer adults between the ages of sixteen (16) and twenty-four (24) without a high school diploma or GED than the county had in the year 2000.

Section 2. KRS 158.6455 is amended to read as follows:

It is the intent of the General Assembly that schools succeed with all students and receive the appropriate consequences in proportion to that success.

(1) (a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and

158.6472 and KRS Chapter 13A to establish a system for identifying and rewarding successful schools. A reward shall be distributed to successful schools based on the number of full-time, part-time, and itinerant certified staff employed in the school on the last working day of the year of the reward to be used for school purposes as determined by the school council or, if none exists, the principal. The Kentucky Board of Education shall identify reports, paperwork requirements, and administrative regulations from which high performing schools shall be exempt.

(b) Effective July 1, 2006, the Kentucky Board of Education shall reward schools that exceed their improvement goal and have an annual average dropout rate below five percent (5%). ***A student shall not be included in a school's annual average dropout rate if the student is enrolled in a district-operated or district-contracted alternative program leading to a certificate of completion or a General Educational Development (GED) diploma.***

(c) A student enrolled in a district-operated or district-contracted alternative program shall participate in the appropriate assessments required by the Commonwealth Accountability Testing System established in KRS 158.6453.

(2) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate by administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A the formula for a school accountability index to classify schools every two (2) years based on whether they have met their threshold level for school improvement, with school years 1998-2000 serving as the baseline. The formula shall reflect the school goals described in KRS 158.6451, except there shall be no measurement of the goals included in subsection (1)(b)3. and (1)(b)4.

(3) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A to establish appropriate consequences for schools failing to meet their threshold. The consequences shall be designed to improve teaching and learning and may include, but not be limited to:

(a) A scholastic audit process under subsection (4) of this section to determine the appropriateness of a school's classification and to recommend needed assistance;

(b) School improvement plans;

(c) Eligibility to receive Commonwealth school improvement funds under KRS 158.805;

(d) Education assistance from highly skilled certified staff under KRS 158.782;

(e) Evaluation of school personnel; and

(f) Student transfer to successful schools.

(4) (a) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate an administrative regulation in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A establishing the guidelines for conducting scholastic audits, which shall include the process for:

1. Appointing and training team members. The team shall include at least a highly skilled certified educator under KRS 158.782, a teacher, a principal or other local district administrator, a parent, and a university faculty member;

2. Reviewing a school's learning environment, efficiency, and academic performance of students and the quality of the school council's data analysis and planning in accordance with KRS 160.345(2)(j);

3. Evaluating each certified staff member assigned to the school. Only certified members of the audit team shall evaluate personnel; and

4. Making a recommendation to the Kentucky Board of Education about the appropriateness of a school's classification and a recommendation concerning the assistance required by the school to improve teaching and learning.

(b) For information purposes, the board shall also conduct scholastic audits in a sample of schools that achieved their goal and report to the public on the resulting findings regarding each aspect of the schools' operations required under subparagraph 2. of paragraph (a) of this subsection.

(5) (a) Notwithstanding subsections (2), (3), and (4) of this section and KRS 158.645 to 158.805, the Kentucky Board of Education, after receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, shall promulgate an administrative regulation in conformity with the provisions of KRS 158.6471 and 158.6472 and in accordance with KRS Chapter 13A, establishing a formula for school accountability and a school improvement goal for each school for the 1998-1999 and 1999-2000 school years, with the 1996-97 and 1997-98 school years serving as the baseline. The formula shall be based on the academic and nonacademic

components that are administered in a consistent manner during the four (4) year period.

(b) 1. The Kentucky Board of Education shall reward schools that exceed their improvement goal and have an annual average dropout rate below eight percent (8%). ***All students who drop out of school during a school year shall be included in a school's annual average school dropout rate, except as provided in subsection (1)(b) of this section.***

2. Schools failing to improve as identified by the board shall be reviewed by a scholastic audit team appointed by the state board under subsection (4) of this section. The audit shall not include a formal evaluation of each certified staff member. The team shall determine whether the school shall have highly skilled education assistance for advisory purposes. All schools failing to achieve their goal shall develop a school improvement plan and shall be eligible for school improvement funds under KRS 158.805.

(6) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education may promulgate by administrative regulation, in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, a system of district accountability that includes establishing a formula for accountability, goals for improvement over a two (2) year period, rewards for leadership in improving teaching and learning in the district, and consequences that address the problems and provide assistance when the district fails to achieve its goals set by the board.

(7) After receiving the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, the Kentucky Board of Education shall promulgate administrative regulations in conformity with KRS 158.6471 and 158.6472 and KRS Chapter 13A, to establish a process whereby a school shall be allowed to appeal a performance judgment which it considers grossly unfair. Upon appeal, an administrative hearing shall be conducted in accordance with KRS Chapter 13B. The state board may adjust a performance judgment on appeal when evidence of highly unusual circumstances warrants the conclusion that the performance judgment is based on fraud or a mistake in computations, is arbitrary, is lacking any reasonable basis, or when there are significant new circumstances occurring during the biennial assessment period which are beyond the control of the school.

Section 3. KRS 158.146 is amended to read as follows:

(1) No later than December 30, 2000, the Kentucky Department of Education shall establish and implement a comprehensive statewide strategy to provide assistance to local districts and schools to address the student dropout problem in Kentucky public schools. In the development of the statewide strategy, the department shall engage private and public representatives who have an interest in the discussion. The statewide strategy shall build upon the existing programs and initiatives that have proven successful. The department shall also take into consideration the following:

(a) Analyses of annual district and school dropout data as submitted under KRS 158.148 and 158.6453;

(b) State and federal resources and programs, including, but not limited to, extended school services; early learning centers; family resource and youth service centers; alternative education services; preschool; service learning; drug and alcohol prevention programs; School-to-Careers; High Schools that Work; school safety grants; and other relevant programs and services that could be used in a multidimensional strategy;

(c) Comprehensive student programs and services that include, but are not limited to, identification, counseling, mentoring, and other educational strategies for elementary, middle, and high school students who are demonstrating little or no success in school, who have poor school attendance, or who possess other risk factors that contribute to the likelihood of their dropping out of school; and

(d) Evaluation procedures to measure progress within school districts, schools, and statewide.

(2) ***No state or federal funds for adult education and literacy, including but not limited to funds appropriated under KRS 164.041 or 20 U.S.C. sec. 9201 et seq., shall be used to pay for a high school student enrolled in an alternative program operated or contracted by a school district leading to a certificate of completion or a General Educational Development (GED) diploma.***

(3) The department, with assistance from appropriate agencies, shall provide technical assistance to districts requesting assistance with dropout prevention strategies and the development of district and schoolwide plans.

(4)[~~(3)~~] The department shall award grants to local school districts for dropout prevention programs based upon available appropriations from the General Assembly and in compliance with administrative regulations promulgated by the Kentucky Board of Education for this purpose. Seventy-five percent (75%) of the available dropout funds shall be directed to services for at-risk elementary and middle school students, including, but not limited to, identification, counseling, home visitations, parental training, and other strategies to improve school attendance, school achievement, and to minimize at-risk factors. Twenty-five percent (25%) of the funds shall be directed to services for high school students identified as likely to drop out of school, including, but not limited to, counseling, tutoring, extra instructional support, alternative programming, and other appropriate strategies. Priority for grants shall be awarded to districts that average, over a three (3) year period, an annual dropout rate exceeding five percent (5%).

(5)[~~(4)~~] The department shall disseminate information on best practices in dropout prevention in order to advance the knowledge for district and school level personnel to address the dropout problem effectively.

HB 434, AN ACT relating to retired teachers and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.220 is amended to read as follows:

As used in KRS 161.220 to 161.716 and KRS 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the commissioner of education, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any full-time teacher or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;

(c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The State Department of Education, the Education Professional Standards Board, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) ***Employees of the Council on Postsecondary Education who were employees of*** the Department for Adult Education and Literacy ***and who were members of the Kentucky Teachers' Retirement System at the time the department was transferred to the council pursuant to Executive Order 2003-600***~~[, except that the commissioner shall not be a member]~~;

(h) The Department for Technical Education, except that the commissioner shall not be a member;

(i) The Department of Vocational Rehabilitation;

(j) The Kentucky Educational Collaborative for State Agency Children;

(k) The Governor's Scholars Program;

(l) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member;

(m) Employees of the Cabinet for Workforce Development who are transferred to the Kentucky Community and Technical College System and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement System coverage that would have previously been included in the Cabinet for Workforce Development, shall be members of the Teachers' Retirement System;

(n) Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky Community and Technical College System. New employees occupying positions in the Kentucky Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included in the Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and Technical College System, including participation in the Kentucky Teachers' Retirement

System, on the same basis as faculty of the state universities as provided in KRS 161.540 and 161.620; and

(o) Employees of the Office of General Counsel, the Office of Budget and Administrative Services, and the Office of Quality and Human Resources within the Office of the Secretary of the Cabinet for Workforce Development and the commissioners of the Department for Adult Education and Literacy and the Department for Technical Education who were contributing to the Kentucky Teachers' Retirement System as of July 15, 2000;

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up member contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up member contributions. Additionally, the board of trustees may approve a final average salary based upon the average of the three (3) highest salaries for members who are at least fifty-five (55) years of age and have a minimum of twenty-seven (27) years of Kentucky service credit. However, if any of the five (5) or three (3) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for members of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS ***158.6455 or*** 158.782 on or after July 1, 1996. Under no circumstances shall annual compensation include compensation that is earned by a member while on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section. In the event that federal law requires that a member continue membership in the retirement system even though the member is on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section, the member's annual compensation for retirement purposes shall be deemed to be the annual compensation, as limited by subsection (9) of this section, last earned by the member while still employed solely by and providing services directly to a public board, institution, or agency listed in subsection (4) of this section. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Employ," and derivatives thereof, means relationships under which an individual provides services to an employer as an employee, as an independent contractor, as an employee of a third party, or under any other arrangement as long as the services provided to the employer are provided in a position that would otherwise be covered by the Kentucky Teachers' Retirement System and as long as the services are being provided to a public board, institution, or agency listed in subsection (4) of this section;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up

member contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The retirement plan year is concurrent with this fiscal year. A contract for a member employed by a local board of education may not exceed two hundred sixty-one (261) days in the fiscal year;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up member contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year;

(21) "Full-time" means employment in a position that requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal year basis;

(22) "Full actuarial cost," when used to determine the payment that a member must pay for service credit means the actuarial value of all costs associated with the enhancement of a member's benefits or eligibility for benefit enhancements, including health insurance supplement payments made by the retirement system. The actuary for the retirement system shall determine the full actuarial value costs and actuarial cost factor tables as provided in KRS 161.400; and

(23) "Last annual compensation" means the annual compensation, as defined by subsection (10) of this section and as limited by subsection (9) of this section, earned by the member during the ***most recent period of contributing service, either consecutive or nonconsecutive, that is sufficient to provide the member with one (1) full year of service credit in the Kentucky Teachers' Retirement System, and which compensation is used in calculating the member's initial retirement allowance***~~[twelve (12) months immediately preceding the member's effective retirement date]~~, excluding bonuses, retirement incentives, payments for accumulated sick, annual, personal and compensatory leave, and any other lump-sum payment.

Section 2. KRS 161.260 is amended to read as follows:

An election shall be held on or before June 1 of each year to elect trustees. The trustees to be elected each year shall depend upon the respective terms of the trustees elected under Acts 1938 (1st Ex. Sess.), Ch. 1, paragraph 7 and Acts 1940, Ch. 192, paragraph 7a, and KRS 161.250. Each trustee shall assume office on July 1 following his election and shall serve for a term of four (4) years. The elections shall be conducted by ballot under the supervision of the chief state school officer. Each person who is a contributing member ***as a result of full-time employment in a position covered by the retirement system*** or ***who is*** an annuitant of the retirement system shall have the right to vote. ***Each person who is a contributing member as a result of part-time or substitute employment in a position covered by the retirement system shall be permitted to vote as provided in Section 17 of this Act.*** Nominations for trustees shall be made by a nominating committee consisting of one (1) committee member selected by the retirement system membership of each of the districts of the Kentucky Education Association, and one (1) committee member to be selected by retired teachers, on a statewide basis, from among the annuitants of the retirement system. No person may be a member of the nominating committee who is not a member of the system, except for the committee member to be selected from among the annuitants of the system. The president of the Kentucky Education Association shall preside over the meeting of the nominating committee and the secretary of the Teachers' Retirement System shall act as secretary to the committee. Two (2) persons shall be nominated by the nominating committee for each position to be filled. All expenses of the election shall be paid by the board of trustees out of its general expense fund.

Section 3. KRS 161.340 is amended to read as follows:

(1) The board of trustees shall elect from its membership a chairperson and a vice chairperson on an annual basis as prescribed by the administrative regulations of the board of trustees. The board of trustees shall employ an executive secretary by means of a contract not to exceed a period of four (4) years and fix the compensation and other terms of employment for this position without limitation of the provisions of KRS Chapters 18A, 45A, 56, and KRS 64.640. The executive secretary shall be the chief administrative officer of the board. The executive secretary, at the time of employment, shall be a graduate of a four (4) year college or university, and shall possess qualifications as the board of trustees may require. The executive secretary shall not have held by appointment or election an elective public office within the five (5) year period next preceding the date of employment.

(2) The board shall employ clerical, administrative, and other personnel as are required to transact the business of the retirement system. The compensation of all persons employed by the board shall be paid at the rates and in amounts as the board approves. Anything in the Kentucky Revised Statutes to the contrary notwithstanding, the power over and the control of determining and maintaining an adequate complement of employees in the system shall be under the exclusive jurisdiction of the board of trustees.

(3) The board shall contract for actuarial, auditing, legal, medical, investment counseling, and other professional or technical

services as are required to carry out the obligations of the board in accordance with the provisions of this chapter without limitations, including KRS Chapters 12, 13B, 45, 45A, 56, and 57*,* and shall provide for legal counsel and other legal services as may be required in defense of trustees, officers, and employees of the system who may be subjected to civil action arising from the performance of their legally assigned duties if counsel and services are not provided by the Attorney General.

(4) The board shall require the trustees, executive secretary, and employees it determines proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.

(5) The board of trustees may expend funds from the expense fund as necessary to insure the trustees, employees, and officials of the Teachers' Retirement System against any liability arising out of an act or omission committed in the scope and course of performing legal duties.

(6) Notwithstanding any statute to the contrary, employees shall not be considered legislative agents as defined in KRS 6.611.

Section 4. KRS 161.420 is amended to read as follows:

All of the assets of the retirement system are for the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system. The board of trustees shall be the trustee of all funds of the system and shall have full power and responsibility for administering the funds. It is hereby declared that the restrictions and rights provided herein shall not be subject to reduction or impairment by alteration, amendment, or repeal. All the assets of the retirement system shall be credited according to the purpose for which they are held to one (1) of the following funds:

(1) The expense fund shall consist of the funds set aside from year to year by the board of trustees to defray the expenses of the administration of the retirement system. Each fiscal year an amount not greater than four percent (4%) of the dividends and interest income earned from investments during the immediate past fiscal year shall be set aside into the expense fund or expended for the administration of the retirement system;

(2) The teachers' savings fund shall consist of the contributions paid by members of the retirement system into this fund and regular interest assigned by the board of trustees from the guarantee fund. A member may not borrow any amount of his or her accumulated contributions to this fund, or any interest earned thereon. The accumulated contributions of a member returned to him upon his withdrawal or paid to his estate or designated beneficiary in the event of his death shall be paid from the teachers' savings fund. Any accumulated contributions forfeited by a failure of a teacher or his estate to claim these contributions shall be transferred from the teachers' savings fund to the guarantee fund. The accumulated contributions of a member shall be transferred from the teachers' savings fund to the allowance reserve fund in the event of retirement by reason of service or disability;

(3) The state accumulation fund shall consist of funds appropriated by the state for the purpose of providing annuities ***and***~~[,]~~ survivor benefits,~~[and death benefits,]~~ including any sums appropriated for meeting unfunded liabilities, together with regular interest assigned by the board of trustees from the guarantee fund. At the time of retirement or death of a member there shall be transferred from the state accumulation fund to the allowance reserve fund an amount which together with the sum transferred from the teachers' savings fund will be sufficient to provide the member a retirement allowance and provide for benefits under KRS 161.520 ***and***~~[,]~~ 161.525~~[, and 161.655]~~;

(4) The allowance reserve fund shall be the fund from which shall be paid all retirement allowances and benefits provided under KRS 161.520 ***and***~~[,]~~ 161.525~~[, and 161.655]~~. In addition, whenever a change in the status of a member results in an obligation on this fund, there shall be transferred to this fund from the teachers' savings fund and the state accumulation fund, the amounts as may be held in those funds for the account or benefit of the member;

(5) The medical insurance fund shall consist of amounts accumulated for the purpose of providing benefits as provided in KRS 161.675. One and five tenths percent (1.5%) of the gross annual payroll of all members shall be deposited to this fund. One-half (1/2) of this amount shall derive from member contributions and one-half (1/2) from a state appropriation. The board of trustees may allocate the three and twenty-five hundredths percent (3.25%) of the total salaries of active members that the state appropriates annually as provided under KRS 161.550. ***In addition, the medical insurance fund shall be funded by the employer medical insurance fund stabilization contribution as set forth in Section 12 of this Act.*** The medical insurance fund shall receive all interest income from the investments of the fund. All claims for benefits under KRS 161.675 shall be paid from this fund. Any amounts not required to meet current costs shall be maintained as a reserve for these benefits;

(6) The guarantee fund shall be maintained to facilitate the crediting of uniform interest on the amounts of the other funds, except the expense fund, to finance operating expenses directly related to investment management services, and to provide a contingent fund out of which special requirements of any of the other funds may be covered. All income, interest, and dividends derived from the authorized deposits and investments shall be paid into the guarantee fund. Any funds received from gifts and bequests, which the board is hereby authorized to accept and expend without limitation in a manner either expressed by the donor or deemed to be in the best interest of the membership, shall be credited to the guarantee fund. Any funds transferred from the teachers' savings fund by reason of lack of claimant or because of a surplus in any fund and any other moneys whose disposition is not otherwise provided for, shall also be credited to the guarantee fund. The interest allowed by the board of trustees to each of the other funds shall be paid to these funds from the guarantee fund. Any deficit occurring in any fund that would not be automatically covered shall be met by the payments from the guarantee fund to that fund. The board of trustees may, at any time during a fiscal year, transfer from the guarantee fund to the medical

insurance fund an amount not to exceed four percent (4%) of the income earned from investments during the immediate past year;

(7) The school employee annuity fund shall consist of those funds voluntarily contributed under the provisions of section 403(b) of the Internal Revenue Code by a retired member of the Teachers' Retirement System with accounts that existed on or after July 1, 1996. The contributions shall not be picked up as provided in KRS 161.540(2). Separate member accounts shall be maintained for each member. The board of trustees may promulgate administrative regulations pursuant to KRS Chapter 13A to manage this program;

(8) The supplemental retirement benefit fund shall consist of those funds contributed by the employer for the purpose of constituting a qualified government excess benefit plan as described in Section 415 of the Internal Revenue Code for accounts that existed on or after July 1, 1996. The board of trustees may promulgate administrative regulations pursuant to KRS Chapter 13A to administer this program; ***and***

(9)[~~The defined contribution fund shall consist of those funds contributed by retired members who have been approved by the retirement system for full-time reemployment in a position covered by the retirement system and contributions made by the employer for the purpose of providing separate retirement allowances for periods of reemployment. Separate member accounts shall be maintained for each member. The board of trustees may promulgate administrative regulations pursuant to KRS Chapter 13A to administer this program. The contributions shall not be picked up as provided in KRS 161.540(2); and~~

~~(10)~~] The life insurance benefit fund shall consist of amounts accumulated for the purpose of providing benefits provided under KRS 161.655. The board of trustees may allocate to this fund a percentage of the employer and state contributions as provided under KRS 161.550. The allocation to this fund will be in an amount that the actuary determines necessary to fund the obligation of providing the benefits provided under KRS 161.655.

Section 5. KRS 161.430 is amended to read as follows:

(1) The board of trustees shall be the trustee of the funds of the retirement system and shall have full power and responsibility for the purchase, sale, exchange, transfer, or other disposition of the investments and moneys of the retirement system. The board shall, by administrative regulation, establish investment policies and procedures to carry out their responsibilities. The board shall employ experienced competent investment counselors to advise it on all matters pertaining to investment, except the board may employ qualified investment personnel to advise it on investment matters not to exceed fifty percent (50%) of the book value of the system's assets. All individuals associated with the investment and management of retirement system assets, whether contracted investment advisors or staff employees, shall adhere to "The Code of Ethics" and "The Standards of Professional Conduct" promulgated by the Association for Investment Management and Research. Effective July 1, 1991, no investment counselor shall manage more than forty percent (40%) of the funds of the retirement system. The board may appoint an investment committee consisting of the executive secretary and two (2) trustees to act for the board in all matters of investment, subject to the approval of the board of trustees. The board of trustees, in keeping with their responsibilities as trustees and wherever consistent with their fiduciary responsibilities, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth. Toward this end, the board shall develop procedures for informing the business community of the potential for in-state investments by the retirement fund, accepting and evaluating applications for the in-state investment of funds, and working with members of the business community in executing in-state investments which are consistent with the board's fiduciary responsibilities. The board shall include in the criteria it uses to evaluate in-state investments their potential for creating new employment opportunities and adding to the total job pool in Kentucky. The board may cooperate with the board of trustees of Kentucky Retirement Systems in developing its program and procedures, and shall report to the Legislative Research Commission annually on its progress in placing in-state investments. The first report shall be submitted by October 1, 1991, and subsequent reports shall be submitted by October 1 of each year thereafter. The report shall include the number of applications for in-state investment received, the nature of the investments proposed, the amount requested, the amount invested, and the percentage of applications which resulted in investments.

(2) The board members and investment counselor shall discharge their duties with respect to the assets of the system solely in the interests of the active contributing members and annuitants and:

(a) For the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system;

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent ***person***[~~man~~] acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims;

(c) By diversifying the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(d) In accordance with the laws, administrative regulations, and other instruments governing the system.

(3) (a) In choosing and contracting for professional investment management services the board must do so prudently and in the interest of the members and annuitants. Any contract that the board makes with an investment counselor shall set forth policies and guidelines of the board with reference to standard rating services and specific criteria for determining the quality of investments. Expenses directly related to investment management services shall be

financed from the guarantee fund in amounts approved by the board.

(b) An investment counselor appointed under this section shall acknowledge in writing his fiduciary responsibilities to the fund. To be eligible for appointment, an investment counselor must be:

1. Registered under the Federal Investment Advisors Act of 1940; or
2. A bank as defined by that Act; or
3. An insurance company qualified to perform investment services under the laws of more than one (1) state.

(4) No investment or disbursement of funds shall be made unless authorized by the board of trustees, except that the board, in order to ensure timely market transactions, shall establish investment guidelines, by administrative regulation, and may permit its staff and investment counselors employed pursuant to this section to execute purchases and sales of investment instruments within those guidelines without prior board approval.

Section 6. KRS 161.480 is amended to read as follows:

Each person, upon becoming a member of the retirement system, shall file a detailed statement as required by the board of trustees and shall designate a primary beneficiary ***or two (2) or more co-beneficiaries*** to receive any benefits accruing from the death of the member. A contingent beneficiary may be designated in addition to the primary beneficiary ***or co-beneficiaries. The member may name more than one (1) contingent beneficiary***. Any beneficiary designation made by the member shall remain in effect until changed by the member on forms prescribed by the Kentucky Teachers' Retirement System, except in the event of subsequent marriage or divorce. Subsequent marriage by the member shall void the primary beneficiary ***and any co-beneficiary*** designation and the spouse of the member at death shall be considered as the primary beneficiary, unless the member subsequent to marriage designates another beneficiary. A final divorce decree shall terminate an ex-spouse's status as either primary ***beneficiary, co-beneficiary,*** or contingent beneficiary, unless subsequent to divorce the member redesignates the former spouse as primary ***beneficiary, co-beneficiary,*** or contingent beneficiary. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of a member's contributions to the retirement system as provided under KRS 161.470(7)~~[and 161.650, and for receipt of the life insurance benefit provided under KRS 161.655]~~. ***A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust.*** The provisions of this section shall be retroactive as they relate to election of beneficiaries by members still in active status on the effective date of this section. ***The provisions of this section shall not apply to any account from which a member is drawing a retirement allowance or to the life insurance benefit available under Section 23 of this Act.***

Section 7. KRS 161.507 is amended to read as follows:

(1) An active contributing member of the Teachers' Retirement System may receive service credit for active service rendered in the uniformed services of the Armed Forces of the United States, including the commissioned corps of the Public Health Service, subject to the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 and to administrative regulations promulgated by the board of trustees. Military service includes service in the uniformed services that occurs before the employment of a member in a position covered by the retirement system or where a member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services. Service in the uniformed services also includes uniformed service that occurs after employment in a position covered by the retirement system where the member has given advance written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment. Military service may be credited only if discharge was honorable or was not terminated upon the occurrence of any of the events listed in 38 U.S.C. sec. 4304. Service shall be considered as Kentucky teaching service, except that service may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1) unless the service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returned directly from uniformed services to covered employment. A maximum of six (6) years of military service may be credited, but in no case a greater number of years than the actual years of contributing service in Kentucky.

(2) No credit shall be granted for military service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

(3) A member having twenty (20) years or more of active duty in the military service, and who is qualified for regular federal retirement benefits based on this military service, may not receive credit for any military service in the Teachers' Retirement System. This subsection shall apply to service presented for credit on July 1, 1975, and after this date.

(4) (a) A member receiving retirement credit for active duty in the armed services of the United States prior to employment in a position covered by the retirement system or where the member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services shall pay to the retirement system the full actuarial cost of the service credit purchased as provided under KRS 161.220(22).~~[Two percent (2%) of the required payment shall be allocated to the medical insurance fund.]~~ These contributions shall not be picked up, as described in KRS 161.540(2). In purchasing retirement credit for active duty in the armed services, the latest years of service shall be considered first in allowing credit toward retirement. The board of trustees shall adopt a table of actuarial factors to be used in calculating the amount of contribution required for crediting this service.

(b) If military service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment, the member shall contribute the regular member contribution required by KRS 161.540. The member may make the payment of delayed contributions in a lump sum payment or in installments not to exceed five (5) years beginning with the member's date of reemployment. Interest at the rate of eight percent (8%) per annum shall be charged for delayed contributions beginning with the member's date of reemployment until paid.

(5) An active contributing member of the Teachers' Retirement System may receive service credit for service in the military reserves of the United States or the National Guard. The member may purchase one (1) month of service for each six (6) months of service in the reserves or the National Guard. Notwithstanding any other statute, regulation, or policy to the contrary, the system shall provide a member, upon request, the estimated actuarial cost of the National Guard or military reserves service purchase based upon the information available at the time of the request. The member shall be entitled to enter into a contract with the system at the time of the request to purchase the National Guard or military reserve service by paying to the system the estimated actuarial cost, either by installments or in lump sum. The member shall pay the full actuarial cost of this service in the military reserves or the National Guard as provided in KRS 161.220(22). Service in the military reserves or the National Guard shall be treated as service earned prior to participation in the system and shall not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). The payment shall not be picked up by the employer, as described in KRS 161.540(2).

Section 8. KRS 161.515 is amended to read as follows:

(1) For the purposes of this section, "out-of-state service" shall mean service in any state in a comparable position ***on a full-time basis***, which would be covered if in Kentucky.

(2) (a) An active contributing member who has been a contributing member of the retirement system for at least one (1) full scholastic year subsequent to the latest out-of-state service, may present for credit service rendered out of state, not to exceed ten (10) years actually taught as a certified or licensed teacher. With the exception of university faculty members, all members who elect to purchase this service shall pay to the retirement system an amount equal to the current member contribution rate based on the first Kentucky salary of the member subsequent to the out-of-state service, provided this service was rendered after June 30, 1983. In the event this service was rendered prior to July 1, 1983, the contribution rate shall be seven and eighty-four hundredths percent (7.84%). University faculty members shall pay on a contribution rate of seven and eighty-four hundredths percent (7.84%) based on the first Kentucky salary subsequent to the out-of-state service, regardless of when the service was rendered. Members shall pay to the retirement system the employer contribution at the rates set forth in KRS 161.550. In addition, all members shall pay interest on the contributions for this service at a rate to be set by the board of trustees on each annual contribution from the last day of the scholastic year in which the service was rendered to date of payment to the retirement system. The payments shall not be picked up as described in KRS 161.540(2). For each year of which the retirement system shall accept the contribution and interest, one (1) year of service credit shall be given. This credit may not be used to meet the service requirements of KRS 161.525, 161.600, or 161.661, except as provided in subsection (2)(c) of this section. No credit shall be granted for service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds;

(b) A member of the retirement system having teaching service in the elementary or secondary schools operated by the United States overseas or in this country, or in a public college or university in Kentucky, not included in the Teachers' Retirement System of the State of Kentucky, may present this service for credit in the retirement system on the same basis as provided above for out-of-state service credit; however, no service may be presented which shall be used as a basis for retirement benefits in any program supported wholly or in part by a public institution or governmental agency. This service when added to service credited under subsection (2)(a) of this section shall not exceed a total of ten (10) years' service credit; and

(c) A member having service referred to in subsection (2)(a) or (2)(b) of this section may elect to use this service for meeting the requirements of KRS 161.600(1)(c) by making an additional contribution to the state accumulation fund equal to a member contribution rate of eight percent (8%) for each year so used. These payments shall not be picked up as described in KRS 161.540(2). The salary base to be used in determining this additional contribution shall be the final average salary which is used in calculating the member's regular retirement annuity.

(3) Members entering the Teachers' Retirement System for the first time, July 1, 1976, and after this date, shall not receive credit for service defined in subsections (2)(a) or (2)(b) of this section in excess of one (1) year of credit for each two (2) years of Kentucky service in a covered position or ten (10) years, whichever is the lesser number.

(4) A member, having completed service as a volunteer in the Kentucky Peace Corps created by KRS 154.01-720, may purchase service credit for the time served in the corps on the same basis as provided in this section for the purchase of out-of-state service credit. A member, having completed service as a federal Peace Corps volunteer, may purchase up to two (2) years of service credit for time served in the Peace Corps on the same basis as provided in this section for the purchase of out-of-state service credit.

(5) Notwithstanding any other provisions of this section to the contrary, purchase of service credit for out-of-state teaching, Kentucky Peace Corps, and federal Peace Corps service on July 1, 2005, or thereafter shall be purchasable only at full actuarial cost.

Section 9. KRS 161.520 is amended to read as follows:

Upon the death of an active contributing member or upon the death of a member retired for disability, except as provided in KRS 161.661(6), the survivors of the deceased member in the following named order, may elect to receive a survivor's benefit payable as follows:

(1) Where there is a surviving widow or widower who is named as ***the primary*** beneficiary of the member's retirement account, the benefit shall be:

  (a) One hundred eighty dollars ($180) per month with no restriction on other income;

  (b) Two hundred forty dollars ($240) per month when the surviving widow or widower's total income from all sources does not exceed six thousand six hundred dollars ($6,600) per year or five hundred fifty dollars ($550) per month; or

  (c) If the deceased member has a minimum of ten (10) years of service credit with the Teachers' Retirement System, the surviving widow or widower may apply for an annuity actuarially equivalent to the annuity that would have been paid to the deceased member when eligibility conditions were met. Eligibility for payments would begin at the time the age of the deceased member would have met the requirements of KRS 161.600(1). In exercising this right, the surviving widow or widower shall be entitled to receive an annuity for life, except as provided in subsection (6) of this section. This subsection applies to surviving spouses of members who die on or after July 1, 1978. A surviving widow or widower of a member who dies after July 1, 1978, shall be eligible for benefit payments provided under paragraphs (a) and (b) of this subsection until they begin receiving payments under this provision.

(2) Where there are surviving unmarried children under age eighteen (18) or under age nineteen (19) if a full-time student in high school, the benefit shall be two hundred dollars ($200) per month in the case of one (1) child, three hundred forty dollars ($340) per month in the case of two (2) children, four hundred dollars ($400) per month in the case of three (3) children, and four hundred forty dollars ($440) per month in the case of four (4) or more children. Benefits under this subsection shall apply in addition to benefits which may be payable under subsections (1) and (3) of this section.

(3) Where the survivor is a child age eighteen (18) or older whose mental or physical condition is sufficient to cause his dependency on the deceased member at the time of the member's death, the benefit shall be two hundred dollars ($200) per month, payable for the life of the child or until the time as the mental or physical condition creating the dependency no longer exists or the child marries. Benefits under this subsection and subsection (2) of this section shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one (1) year prior to the death of the member. The mental or physical condition of the adult child shall be revealed by a competent examination by a licensed physician and shall be approved by a majority of a medical review committee as defined in KRS 161.661(13). Benefits under this subsection shall apply in addition to benefits which may be payable under subsections (1) and (2) of this section.

(4) Where the sole eligible survivors are dependent parents aged sixty-five (65) or over, the benefit shall be two hundred dollars ($200) per month for one (1) parent or two hundred ninety dollars ($290) per month for two (2) parents. Dependency of a parent shall be established as of the date of the death of the member.

(5) Where the sole eligible survivor is a dependent brother or sister, the benefit shall be one hundred sixty five dollars ($165) per month. In order to qualify the brother or sister must have been a resident of the deceased member's household for at least one (1) full year prior to the member's death or must have been receiving care in a hospital, nursing home, or other institution at the member's expense for same period.

(6) The benefit to a child as defined in subsection (2) of this section shall terminate upon the attainment of age eighteen (18) or upon reaching age nineteen (19), if a full-time student in high school, or upon marriage, except that benefits shall continue until the attainment of age twenty-three (23) for an unmarried child who is a full-time student in a recognized educational program beyond the high school level. The benefit to a widow, widower, dependent parent, or dependent brother or sister or dependent child age eighteen (18) or older shall terminate upon marriage, or upon termination of the condition creating the dependency.

(7) The board of trustees shall be the sole judge of eligibility or dependency of any beneficiary, and may require formal application or information relating to eligibility or dependency, including proof of annual income satisfactory to the board. The board of trustees may subpoena records and individuals whenever it deems this action necessary.

(8) No payment of benefits shall be made unless the board of trustees authorizes the payment. The board shall promulgate administrative regulations for the administration of the provisions in this section and in every case the decision of the board of trustees shall be final as to eligibility, dependency, or disability, and the amount of benefits payable.

(9) In the event that there are no eligible survivors as defined in subsections (1) to (5) of this section, the board of trustees shall pay to the estate or assigns of the deceased member a refund of his accumulated contributions as provided in KRS 161.470(7). If the benefits paid or payable under subsections (1) to (5) of this section and KRS 161.661 shall amount to a sum less than the member's accumulated contributions at the time of death, the board of trustees shall pay to the estate or assigns of the deceased member the balance of the accumulated contributions.

(10) Any person who is receiving benefits and becomes disqualified from receiving those benefits under this section shall immediately notify the Teachers' Retirement System of this disqualification in writing and shall return all benefits paid

after the date of disqualification. Failure to comply with these provisions shall create an indebtedness of that person to the Teachers' Retirement System. Interest at the rate of eight percent (8%) per annum shall be charged if the debt is not repaid within sixty (60) days after the date of disqualification. Failure to repay this debt creates a lien in favor of the Teachers' Retirement System upon all property of the person who improperly receives benefits and does not repay those benefits.

Section 10. KRS 161.525 is amended to read as follows:

(1) Upon death of a member in active contributing status at the time of death, who was eligible to retire by reason of service, the spouse, if named as ***the primary*** beneficiary of the member's retirement account, or in the absence of an eligible spouse a legal dependent of the member, if named as ***the primary*** beneficiary, shall be entitled to elect, in lieu of a refund of the member's account or benefits provided in KRS 161.520, an annuity actuarially equivalent at the attained age of the beneficiary to the annuity that would have been paid to the deceased member had retirement been effective on the day immediately preceding the member's death. Under the provisions of KRS 61.680, benefits shall be processed as if the member retired for service. In exercising this right the spouse or legal dependent shall be limited to selecting an option providing either a straight life annuity with refundable balance or a term certain option. A spouse may receive the annuity provided by this section at the same time as children are qualifying for survivors' benefits under the provisions of KRS 161.520; however, a legal dependent, other than a spouse, may not receive these payments if children have qualified for benefits under that section.

(2) A spouse[~~ or legal dependent~~] qualifying for an annuity under subsection (1) of this section may defer the payments in order to reduce the actuarial discounts to be applied due to age.

(3) Upon death of a member in active contributing status at the time of his death, who had a minimum of twenty-seven (27) years of service, the spouse, if named as the ***primary*** beneficiary of the member's account shall be entitled to a monthly minimum allowance of three hundred dollars ($300) as the basic straight life annuity. This provision applies to surviving spouses of members who were receiving benefit payments under KRS 161.520 as of June 30, 1986, and to surviving spouses of members who die on or after July 1, 1986.

Section 11. KRS 161.545 is amended to read as follows:

(1) Members may make contributions and receive service credit for substitute, part-time, or any service other than regular full-time teaching as provided in the administrative regulations of the board of trustees if contributions were not otherwise made as a result of the service. Members placed on leave of absence may make contributions and receive service credit for this leave only if contributions are made by the end of the fiscal year next succeeding the year in which the leave was effective as provided in administrative regulations promulgated by the board of trustees. Contributions permitted after August 1, 1982, shall not be picked-up pursuant to KRS 161.540(2).

(2) Active contributing members of the Teachers' Retirement System, or former members who are currently participating in a state-administered retirement system, who were granted leaves of absence since July 1, 1964, for reasons of health ***as defined under the Federal Family Medical Leave Act of 1993, 29 U.S.C. secs. 2601 et seq.***, child rearing, or to improve their educational qualifications, and did not qualify at the time of the leave of absence to make contributions to the retirement system for the leave of absence as provided in subsection (1) of this section, may obtain credit for the leave of absence under the following conditions:

   (a) The leave of absence shall be verified by a copy of the board of education minutes which granted the leave of absence ***or by other documentation that was generated contemporaneously with the leave that is determined by the retirement system to reasonably establish that a leave of absence was granted***; and

   (b) The member shall contribute the required percentage based on the salary received for the year immediately preceding the leave of absence plus interest at the rate of eight percent (8%) compounded annually from the beginning of the school year following the year of the leave of absence, and by depositing in the state accumulation fund an amount equal to this total.

   (c) The member shall receive credit for no more than two (2) years under the provisions of this subsection.

(3) Contributions permitted under this section after August 1, 1982, shall not be picked-up pursuant to KRS 161.540(2).

Section 12. KRS 161.550 is amended to read as follows:

(1) Beginning with July 1, each employer, except as provided under KRS 161.555, shall contribute annually to the retirement system a permanent amount equal to that contributed by members of the retirement system it employs plus an additional three and one-fourths percent (3.25%) of the total of salaries of members of the retirement system it employs to discharge the system's unfunded obligations with interest assumed by the state and to provide funding to the medical insurance fund as provided under KRS 161.420(5).

(2) In addition to the required contributions in subsection (1) of this section, each employer shall contribute annually to the retirement system a percentage of the total salaries of the members it employs to provide stabilization funding for the medical insurance fund. This contribution shall be known as the employer medical insurance fund stabilization contribution. The percentage to be contributed by the employer shall be determined by the retirement system's actuary for each biennial budget period that is necessary to continue providing medical insurance for the retirement system's eligible recipients. The percentage to be contributed by the employer may be suspended or adjusted by the General Assembly if in its judgment the welfare of the Commonwealth so demands.

(3) Each employer shall remit the required employer contributions to the retirement system under the terms and conditions specified for member contributions under KRS 161.560. The state shall provide annual appropriations based upon estimated funds needed to meet the requirements of KRS 161.155; 161.507(4); 161.515; 161.545; 161.553; 161.605; 161.612; and 161.620(1), (3), (5), (6), and (7). In the event an annual appropriation is less than the amount of these requirements, the state shall make up the deficit in the next biennium budget appropriation to the retirement system. Employer contributions to the retirement system are for the exclusive purpose of providing benefits to members and annuitants and these contributions shall be considered deferred compensation to the members.

Section 13. KRS 161.553 is amended to read as follows:

(1) The cost of providing statutory benefit improvements for annuitants may be funded by annual appropriations from the state on an actuarial amortized basis over the lifetime of the annuitants. The schedules in subsections (1)(a), (1)(b), and (1)(c) of this section are the annual appropriations which shall be made by the state for benefit improvements approved in the respective fiscal years or bienniums prior to July 1, *2006*[~~2004~~]:

(a)

Cost of Living *2004-2005*[~~2002-2003~~] Allowance		Each Succeeding Fiscal Year
[~~1988-1990~~	~~$5,761,700~~	~~$2,972,700 in 2003-2004~~]
1990-1992	$4,901,700	[~~$4,901,700 through 2004-2005 and~~] $2,486,800 in 2005-2006
1992-1994	$2,229,400	$2,229,400 through 2006-2007 and $1,125,700 in 2007-2008
1994-1996	$6,142,000	$6,142,000 through 2010-2011
1996-1998	$4,459,000	$4,459,000 through 2010-2011
1998-2000	$15,333,900	$15,333,900 through 2012-2013 and $7,938,600 through 2013-2014
2000-2002	$12,511,400	$12,511,400 through 2014-2015 and $7,227,700 in 2015-2016
2002-2004	*$21,405,700*[~~$4,406,000~~	~~$9,213,400 in 2003-2004~~]

			$21,405,700~~[$21,405,600]~~ through 2021-2022
			and
			$11,204,100~~[$11,204,000]~~ in 2022-2023
	2004-2006	*$7,992,300*	*$15,413,700 through 2023-2024*
			and
			$7,421,400 in 2024-2025
(b)	Minimum Value *2004-2005*~~[2002-2003]~~		Each Succeeding Fiscal Year
	Annuities		
[	~~1988-1990~~	~~$1,718,200~~	
			~~$879,500 in 2003-2004~~]
	1990-1992	$2,246,900	~~[$2,246,900 through 2004-2005~~
			~~and~~]
			$1,232,100 in 2005-2006
	1992-1994	$2,217,700	$2,217,700 through 2006-2007
	1994-1996	$2,126,000	$2,126,000 through 2008-2009
	2002-2004	*$3,375,900*~~[$694,800~~	~~$1,451,800 in 2003-2004~~]
			$3,375,900 through 2016-2017
			and
			$2,027,800 in 2017-2018
(c)	Sick Leave *2004-2005*~~[2002-2003]~~		Each Succeeding Fiscal Year
	Allowance		
	1998-2000	$4,660,300	$4,660,300 through 2012-2013
			and
			$2,425,900 through 2013-2014

2000-2002	$6,167,100	$6,167,100 through 2014-2015 and $3,579,100 in 2015-2016
2002-2004	$3,668,400	***$6,282,500***[~~$7,636,700~~] through 2021-2022 and $3,968,300 in 2022-2023
2004-2006	***$3,669,700***	***$8,009,200 through 2023-2024*** ***and*** ***$4,339,500 in 2024-2025***

(2) The present values of providing statutory cost-of-living increases for annuitants not included in subsection (1) of this section are to be assigned to the unfunded obligations of the retirement system and are identified as follows:

1986-1988	$34,689,893
1990-1992	$68,107,473
1992-1994	$15,749,976

Section 14. KRS 161.597 is amended to read as follows:

(1) A member in active contributing status may purchase any service credit which the member is authorized to purchase by making installment payments in lieu of a lump-sum payment.

(2) To initiate an installment payment plan, a member shall make a written request to the retirement system for an estimate to purchase service credit by making installment payments.

(3) To qualify for installment payments, the ***total cost of the serviced purchase, including any chargeable interest,***[~~member contribution plus interest of eight percent (8%) per annum~~] shall exceed one thousand dollars ($1,000).

(4)[~~ A member may select the service credit to be purchased by installment payments and that service credit shall be purchased before any other credit may be purchased by installment payments.~~

~~(5)~~] Installment payments shall be at least fifty dollars ($50) per month and shall be made for a period of time which is not less than twelve (12) months nor more than sixty (60) months. ***Interest at eight percent (8%) per annum, unless the board specifies in an administrative regulation a different interest rate, shall be charged on all installment payment purchases of service credit that are purchasable at less than full actuarial cost.***

(5)[~~(6)~~] Installment payments shall be made on a monthly basis by payroll deduction or electronic fund transfer and forwarded separately to the Teachers' Retirement System on forms or by computer format not later than fifteen (15) days following the end of each month. The payments shall be considered accumulated contributions and shall not be picked up as provided in KRS 161.560***, except that subject to approval by the Internal Revenue Service and only as permitted by the Internal Revenue Code, installment payments by payroll deduction shall be made on a tax-deferred basis***.

(6)[~~(7)~~] A member may elect to terminate payroll deductions at any time and purchase the remaining service credit by lump-sum payment. A member on a leave of absence may make personal installment payments. Termination of employment in a covered position shall terminate installment payments. If the member is later employed by a different employer in a covered position, the member may request a new estimate and reinstate installment payments. A member that misses two (2) consecutive installment payments shall be in default. A member in default shall receive service credit on a pro rata basis for the total amount of contributions made by installment payments. A member in default may not reinstate installment payments for twelve (12) months from the date the member was in default.

(7)[~~(8)~~] If a member dies before completing scheduled installment payments, the named beneficiary of the member's retirement account may pay the remaining balance due by a lump-sum payment within thirty (30) days of the death of the member.

Section 15. KRS 161.600 is amended to read as follows:

(1) Effective July 1, 1988, a member of the retirement system may qualify for service retirement by meeting one (1) of the

following requirements:

(a) Attainment of age sixty (60) years and completion of five (5) years of Kentucky service;

(b) Attainment of age fifty-five (55) years and completion of a minimum of five (5) years of Kentucky service with an actuarial reduction of the basic allowance of five percent (5%) for each year the member's age is less than sixty (60) years or for each year the member's years of Kentucky service credit is less than twenty-seven (27), whichever is the lesser number;[~~ or~~]

(c) Completion of twenty-seven (27) years of Kentucky service. Out-of-state service earned in accordance with the provisions of KRS 161.515(2) may be used to meet this requirement***; or***

(d) Completion of the necessary years of service under provisions of KRS 61.559(2)(c) if the member is retiring under the reciprocity provisions of KRS 61.680. A member retiring under this paragraph who has not attained age fifty-five (55) shall incur an actuarial reduction of the basic allowance determined by the system's actuary for each year the member's service credit is less than twenty-seven (27).

(2) Any person who has been a member in Kentucky for twenty-seven (27) years or more and who withdraws from covered employment may continue to pay into the fund each year until the end of the fiscal year in which he reaches the age of sixty-five (65) years, the current contribution rate based on the annual compensation received during the member's last full year in covered employment, less any payment received for accrued sick leave or accrued leave from an employer. The member shall be entitled to receive a retirement allowance as provided in KRS 161.620 at any time after withdrawing from covered employment and payment of contributions under this subsection. No member shall make contributions as provided for in this subsection if the member is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.

(3) Service credit in the Kentucky Employees Retirement System, the State Police Retirement System, the Legislators' Retirement Plan, the County Employees Retirement System, or the Judicial Retirement System may be used in meeting the service requirements of subsection (1)(a), (b), and (c) of this section, provided the service is subsequent to July 1, 1956. Upon death, disability, or service retirement, a member's accounts under all state supported retirement systems shall be consolidated, as provided by this section and by KRS 61.680, for the purpose of determining eligibility and amount of benefits, which shall include medical benefits. Upon determination of benefits, each system shall pay the applicable percentage of total benefits. The effective date of retirement under this subsection shall be determined by each retirement system for the portion of the payments that will be made.

(4) No retirement annuity shall be effective until written application and option election forms are filed with the retirement office in accordance with administrative regulations of the board of trustees.

(5) The surviving spouse of an active contributing member, if named as beneficiary of the member's account, may purchase retirement credit that the member was eligible to purchase prior to the member's death.

Section 16. KRS 161.605 is amended to read as follows:

Any member retired by reason of service may return to work in a position covered by the Kentucky Teachers' Retirement System and continue to receive his or her retirement allowance under the following conditions:

(1) Any member who is retired with thirty (30) or more years of service may return to work in a full-time or a part-time position covered by the Kentucky Teachers' Retirement System and earn up to a maximum of seventy-five percent (75%) of the member's last annual compensation measured on a daily rate to be determined by the board of trustees. For purposes of determining whether the salary of a member returning to work is seventy-five percent (75%) or less of the member's last annual compensation, all remuneration paid and benefits provided to the member, on an actual dollar or fair market value basis as determined by the retirement system, shall be considered. Members who were retired on or before June 30, 2002, shall be entitled to return to work under the provisions of this section as if they had retired with thirty (30) years of service. Service credit purchased under the provisions of KRS 161.5465 may not be used to meet the thirty (30) year requirement set forth in this subsection.

(2) Any member who is retired with less than thirty (30) years of service after June 30, 2002, may return to work in a full-time or part-time position covered by the Kentucky Teachers' Retirement System and earn up to a maximum of sixty-five percent (65%) of the member's last annual compensation measured on a daily rate to be determined by the board of trustees. For purposes of determining whether the salary of a member returning to work is sixty-five percent (65%) or less of the member's last annual compensation, all remuneration paid and benefits provided to the member, on an actual dollar or fair market value basis as determined by the retirement system, shall be considered.

(3) Reemployment of a retired member under subsection (1) or (2) of this section in a full-time teaching or nonteaching position in a local school district shall be permitted only if the employer certifies to the Kentucky Teachers' Retirement System that there are no other qualified applicants available to fill the teaching or nonteaching position. The employer may use any source considered reliable including but not limited to data provided by the Education Professional Standards Board and the Department of Education to determine whether other qualified applicants are available to fill the teaching or nonteaching position. The Kentucky Board of Education shall promulgate administrative regulations to establish procedures to determine whether other qualified applicants are available to fill a teaching or nonteaching position and, if not, for filling the position with a retired member who will then be permitted to return to work in that position under

subsection (1) or (2) of this section. The administrative regulations shall assure that a retired member shall not be hired in a teaching or nonteaching position by a local school district until the superintendent of the school district assures the Kentucky Teachers' Retirement System that every reasonable effort has been made to recruit other qualified applicants for the position on an annual basis.

(4) Under this section, an employer may employ full-time a number of retired members not to exceed ***three percent (3%)***[~~four percent (4%)~~] of the membership actively employed full-time by that employer. The board of trustees may reduce this ***three percent (3%)***[~~four percent (4%)~~] cap upon recommendation of the retirement system's actuary if a reduction is necessary to maintain the actuarial soundness of the retirement system. The board of trustees may increase the ***three percent (3%)***[~~four percent (4%)~~] cap upon a determination that an increase is warranted to help address a shortage in the number of available teachers and upon the determination of the retirement system's actuary that the proposed cap increase allows the actuarial soundness of the retirement system to be maintained. For purposes of this subsection, "full-time" means the same as defined by KRS 161.220(21). A local school district may exceed the quota established by this subsection by making an annual written request to the Kentucky Department of Education which the department may approve on a year-by-year basis if the statewide quota has not been met. ***A district's written request to exceed its quota shall be submitted no sooner than two (2) weeks after the start of the school year.***

(5) A member returning to work in a full-time or part-time position under subsection (1) or (2) of this section will ***contribute to an***[~~establish a second~~] account with the retirement system that will be administered independently from and with no reciprocal impact with the member's original retirement account. A member returning to work under subsection (1) or (2) of this section shall make contributions to the retirement system at the rate provided under KRS 161.540. The second account shall independently meet the five (5) year vesting requirement as well as all other conditions set forth in KRS 161.600(1) before any retirement allowance is payable from this account. The retirement allowance accruing under this second account shall be calculated pursuant to KRS 161.620(1)(b). This second account shall not entitle the member to a duplication of the benefits offered under KRS 161.655***, Section 19(7) of this Act,*** or 161.675, nor shall this second account provide the benefits offered by KRS 161.520, 161.525, 161.661, or 161.663. A member returning to work under subsection (1) or (2) of this section shall waive his or her medical insurance with the Kentucky Teachers' Retirement System during the period of reemployment and shall receive the medical insurance coverage that is generally provided by the member's active employer to the other members of the retirement system that the active employer employs. If medical insurance coverage is not available from the employer, the Kentucky Teachers' Retirement System may provide coverage for the member. A member returning to work under subsection (1) or (2) of this section shall not be eligible to purchase service credit for any service provided after the member's effective date of retirement but prior to the date that the member returns to work. A member returning to work under subsection (1) or (2) of this section shall not be eligible to purchase service credit that the member would have otherwise been eligible to purchase prior to the member's initial retirement. A member who returns to work under subsection (1) or (2) of this section, or in the event of the death of the member, the member's estate or applicably designated beneficiary, shall be entitled, within ninety (90) days of the posting of the annual report submitted by the employer, to a refund of contributions as permitted and limited by KRS 161.470.

(6) The board of trustees may annually ***on July 1*** adjust the ***current*** daily rate of a member's last annual compensation, for each[~~ year that the member has been retired for a~~] full twelve (12) month period ***that has elapsed subsequent to the member earning his or her last annual compensation***, by the percentage increase in the annual average of the consumer price index for all urban consumers for the calendar year preceding the adjustment as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%) annually. ***Each annual adjustment shall become part of the member's daily rate base.*** Failure to comply with the salary limitations set forth in subsections (1) and (2) of this section as may be adjusted by this subsection shall result in a reduction of the member's retirement allowance or any other benefit to which the member would otherwise be entitled on a dollar-for-dollar basis for each dollar that the member exceeds these salary limitations.

(7) ***(a)*** A retired member returning to work under subsection (1) or (2) of this section shall have separated from service for a period of at least one (1) year if returning to work for the same employer on a full-time basis, and at least three (3) months if returning to work for a different employer on a full-time basis. A retired member returning to work under subsection (1) or (2) of this section on a part-time basis shall have separated from service for a period of at least three (3) months before returning to work for any employer.

(b) As an alternative to the separation-from-service requirements in paragraph (a) of this subsection, a retired member who is returning to work for the same employer in a full-time position under subsections (1) and (2) of this section may elect a separation-from-service of not less than two (2) months followed by a forfeiture of the retired member's retirement allowance on a month-to-month basis for each month that the member has separated from service for less than twelve (12) full months. A retired member returning to work for the same employer in a part-time position, or for a different employer in a full-time position, may elect an alternative separation-from-service requirement of at least two (2) months followed by a forfeiture of the member's retirement allowance for one (1) month. During the period that the member forfeits his or her retirement allowance and thereafter, member and employer contributions shall be made to the retirement system as a result of employment in any position subject to membership in the retirement system. The member shall contribute to an account with the retirement system subject to the conditions set forth in subsection (5) of this section. For purposes of measuring the separation-from-service requirements set forth throughout this section,

a member's separation-from-service begins on the first day following the last day of paid employment for the member prior to retirement.

(c) Failure to comply with ***the***[~~these~~] separation-from-service requirements ***in this subsection*** voids a member's retirement and the member shall be required to return all the retirement benefits he or she received, with interest, for the period of time that the member returned to work without a sufficient separation from service.

(8) ***Effective July 1, 2004, local school districts may employ retired members in full-time or part-time teaching or administrative positions without limitation on the compensation of the retired members that is otherwise required by subsections (1) and (2) of this section. Under provisions of this subsection, a local school district may only employ retired members to fill critical shortage positions for which there are no other qualified applicants as determined by the local superintendent. The number of retired members that a local school district may employ under this subsection shall be no more than two (2) members per local school district or one percent (1%) of the total active members employed by the local school district on a full-time basis as defined under Section 1(21) of this Act, whichever number is greater. Retired members returning to work under this subsection shall be subject to the separation-from-service requirements set forth in subsection (7) of this section. Retired members returning to work under this subsection shall waive their medical insurance coverage with the retirement system during their period of reemployment and receive medical insurance coverage that is offered to other full-time members employed by the local school district. Retired members returning to work under this subsection shall contribute to an account subject to the conditions set forth in subsection (5) of this section. Retired members returning to work under this subsection shall make contributions to the retirement system at the rate provided under KRS 161.540. The employer shall make contributions at the rate provided under Section 12 of this Act. Local school districts shall make annual payments to the retirement system on the compensation paid to the reemployed retirees at the rates determined by the retirement system's actuary that reflect any accrued liability resulting from the reemployment of these members.***

(9) Members who retired on or before June 30, 2002, may, for the fiscal year concluding on June 30, 2007, be reemployed under the one hundred (100) day provisions of this section as they existed on June 30, 2002, except that members returning to work under those provisions shall make contributions to the Kentucky Teachers' Retirement System at the rate provided under KRS 161.540 and members' employers shall make contributions to the Kentucky Teachers' Retirement System at the rates specified under KRS 161.550. Those members returning to work under the one hundred (100) day provisions of this section as they existed on June 30, 2002, shall further waive their medical insurance coverage with the retirement system during the period of reemployment and will instead receive the medical insurance coverage generally provided by their active employer to other members of the retirement system that the active employer employs. If medical insurance coverage is not available from the employer, the Kentucky Teachers' Retirement System may provide coverage for the member. Notwithstanding any other statute to the contrary, retired members returning to work shall under no circumstances be permitted to purchase as service credit service provided under the one hundred (100) day provisions of this section as they existed on June 30, 2002. ***Any member who exceeds the one hundred (100) day limitation of this subsection shall be subject to having his or her retirement voided and be required to return all retirement allowances and other benefits paid to the member or on the member's behalf since the effective date of retirement. In lieu of voiding a member's retirement, the system may reduce the member's retirement allowance or any other benefits to which the member would otherwise be entitled on a dollar-for-dollar basis for each dollar of compensation that the member earns in employment exceeding one hundred (100) days.***

(10)[~~(9)~~] The return to work limitations set forth in this section and KRS 161.603 shall apply to retired members who are returning to work in the same position from which they retired, or a position substantially similar to the one from which they retired, or any position listed in KRS 161.220(4) which requires membership in the retirement system. Positions which generally require certification or graduation from a four (4) year college or university as a condition of employment which are created, or changed to remove the position from coverage under KRS 161.220(4) are also subject to the return to work limitations set forth in this section and KRS 161.603. The board of trustees shall determine whether employment in a nonteaching position is subject to this subsection.

(11)[~~(10)~~] The provisions of subsections (1) to *(9)*[~~(8)~~] of this section are not subject to KRS 161.714.

(12)[~~(11)~~] ***Retired members may be employed in a part-time teaching capacity by an agency described***[~~Members retired from an agency listed~~] in KRS 161.220(4)(b) or (n) [~~may be employed in a part-time teaching capacity by one (1) of the universities or community colleges participating in the Teachers' Retirement System~~], not to exceed the equivalent of twelve (12) teaching hours in any one (1) fiscal year. ***Retired*** members[~~ retired from an agency listed in KRS 161.220(4)(b) or (n)~~] may be employed for a period not to exceed the equivalent of one hundred (100) days in any one (1) fiscal year in a part-time administrative or nonteaching capacity by ***an agency described in Section 1(4)(b) or (n) of this Act***[~~one (1) of the universities or community colleges participating in the Teachers' Retirement System~~] in a position that would otherwise be covered by the retirement system.[~~ None of these members shall be subject to~~] The return to work provisions set forth in subsections (1) to *(9)*[~~(8)~~] of this section ***shall not apply to retired members who return to work solely for an agency described in Section 1(4)(b) or (n) of this Act***. Calculation of the number of days ***and teaching hours*** for part-time teaching, substitute teaching, or part-time employment in a nonteaching capacity under this section shall not exceed the ratio between a school year and the actual months of retirement for the member during that school year. The board of trustees by administrative regulation may establish fractional equivalents of a day of teaching service. ***Any member who exceeds the twelve (12) hour or one hundred (100) day limitations of this subsection shall be subject***

to having his or her retirement voided and be required to return all retirement allowances and other benefits paid to the member or on the member's behalf since the effective date of retirement. In lieu of voiding a member's retirement, the system may reduce the member's retirement allowance or any other benefit to which the member would otherwise be entitled on a dollar-for-dollar basis for each dollar of compensation that the member earns in employment exceeding twelve (12) hours, one hundred (100) days, or any apportionment of the two (2) combined.

(13)[~~(12)~~] When a retired member returns to employment in a part-time teaching capacity or in a nonteaching capacity as provided in subsection (11) of this section, the employer shall contribute annually to the retirement system on the compensation paid to the retired member at rates determined by the retirement system actuary that reflect accrued liability for retired members who return to work under subsection (11) of this section.

(14) For retired members who return to work during any one (1) fiscal year in both a position described in Section 1(4)(b) or (n) of this Act and in a position described under another provision under Section 1(4) of this Act, and for retired members who return to work in a position described under Section 1(4)(b) or (n) in both a teaching and an administrative or nonteaching capacity, the board of trustees shall adopt a methodology for a pro rata apportionment of days and hours that the retired member may work in each position.

Section 17. KRS 161.612 is amended to read as follows:

Effective July 1, 2002, any individual occupying a position on a part-time basis that requires certification or graduation from a four (4) year college or university as a condition of employment and any individual providing part-time or substitute teaching services that are the same or similar to those teaching services provided by certified, full-time teachers shall be a member of the Kentucky Teachers' Retirement System, according to the conditions set forth in this section, if the individual is employed by one (1) of the public boards, institutions, or agencies set forth in KRS 161.220*, excluding those public boards, institutions, and agencies described in Section 1(4)(b) and (n) of this Act*. Members providing part-time and substitute services shall participate in the retirement system as follows:

(1) Members providing part-time and substitute services shall accrue service credit as provided under KRS 161.500 and be entitled to a retirement allowance upon meeting the service retirement conditions of KRS 161.600. The board of trustees shall adopt a methodology for accrediting service credit to these members on a pro rata basis. The methodology adopted by the board of trustees may be amended as necessary to ensure its actuarial soundness. The retirement allowance for members providing part-time and substitute services shall be calculated pursuant to KRS 161.620. Members providing part-time and substitute services who meet the service retirement conditions of KRS 161.600 may also be eligible to participate as approved by the board of trustees in the medical insurance program provided by the retirement system under KRS 161.675. Members providing part-time and substitute services shall make contributions to the Kentucky Teachers' Retirement System at the rate provided under KRS 161.540. A member who provides part-time or substitute services, or in the event of the death of the member, the member's estate or applicably designated beneficiary, will be entitled, within ninety (90) days of the posting of the annual report submitted by the member's employer, to a refund of contributions as permitted and limited by KRS 161.470.

(2) The board of trustees shall adopt eligibility conditions under which members providing part-time and substitute services may participate in the benefits provided under KRS 161.520, *Section 23 of this Act*[~~161.555~~], 161.661, and 161.663. The board of trustees may adopt eligibility conditions under which members providing part-time or substitute services may participate in other benefits offered by the retirement system. All eligibility conditions adopted by the board of trustees pursuant to this subsection may be amended as necessary to ensure their actuarial soundness.

(3) In addition to the pro rata methodology adopted by the board of trustees under subsection (1) of this section, members providing part-time and substitute services shall be subject to all limitations and conditions regarding the accrual, retention, accreditation, and use of service credit that apply to members providing full-time services. In addition to the eligibility conditions set forth by the board of trustees under subsection (2) of this section, members providing part-time and substitute services shall be subject to all limitations and conditions regarding both the eligibility to participate and the extent of participation in any benefit offered under KRS 161.220 to 161.716 that apply to members providing full-time services.

(4) *Notwithstanding any other provisions of this section to the contrary, instructional assistants who provide teaching services in the local school districts on a full-time basis in positions covered by the County Employees Retirement System who are used as substitute teachers on an emergency basis for five (5) days or less during any one (1) fiscal year shall not be considered members of the Teachers' Retirement System during that period in which they are serving as substitute teachers for five (5) days or less.*

(5) The board of trustees may adopt a pro rata methodology to determine the annual compensation of members providing part-time and substitute services in order to determine benefits provided under KRS 161.661 and 161.663. Members providing part-time and substitute services who had retirement contributions posted to their accounts during the previous fiscal year and who have not had those contributions refunded to them are eligible to vote for the board of trustees.

(6) The board of trustees of the Teachers' Retirement System shall be responsible for final determination of membership eligibility and may direct employers to take whatever action that may be necessary to correct any error relating to membership.

(7)[~~(5)~~] The provisions of this section are not subject to KRS 161.714.

Section 18. KRS 161.614 is amended to read as follows:

A court order awarding additional back salary to or reinstating a member as a result of employment in a position covered by the Kentucky Teachers' Retirement System shall entitle the member to additional salary or service credit, or both, under the following circumstances:

(1) Members shall make contributions to the Kentucky Teachers' Retirement System at the rate set forth in KRS 161.540 and members' employers shall make contributions at the rate set forth in KRS 161.550, with interest accruing on all contributions at the rate of eight percent (8%) per annum from the end of each fiscal year that back salary or the reinstatement was ordered. Contributions, plus interest, shall be made for each year that back salary or reinstatement was ordered. No service or salary credit shall be credited to a member's account unless full contributions are paid to the Kentucky Teachers' Retirement System.

(2) The member may have court-ordered back salary credited to his or her account only to the extent that the member actually received payment for the back salary and only to the extent that the court-ordered back salary is within the salary scale that was available to the member in the covered position for the years that the back salary was awarded. Court-ordered back salary can be credited to the member's account only as permitted under KRS 161.220(9) and (10). ***The member may have court-ordered service credited to his or her account only after the retirement system has received the contributions and interest on the full compensation that would normally be earned in the position that is the subject of the litigation.***

(3) The member's employer ordered to pay back salary or to reinstate the member by a court of competent jurisdiction shall provide the retirement system with a breakdown of the back salary awarded to the member on a year-by-year basis.

(4) The calculations of the contributions and interest required to be paid for court-ordered back salary or reinstatement shall be provided by the retirement system to the member or the member's employer at the member's or employer's request. Requests for these calculations shall be made with at least two (2) weeks of advance notice to the retirement system to provide these calculations. The retirement system will calculate accrued interest as of the last day of the month during which payment of the full contributions are made.

(5) For purposes of this section, a settlement agreement that provides back salary or reinstatement, and is adopted by order or judgment of a court of competent jurisdiction or is referenced in an order dismissing the action as settled shall have the same effect as a court order adjudicating the matter. Orders entered by a government board or agency as a result of litigation conducted on an administrative hearing level shall be considered as court orders for the purposes of this section.

(6) Under no circumstances shall a member be entitled to service credit as a result of court-ordered reinstatement that is in violation of the provisions of KRS ***161.500***[~~161.550~~].

Section 19. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:

(a) For retirements effective July 1, 1998, and thereafter, except as otherwise provided by this section, the annual allowance for each year of service shall be two percent (2%) of the final average salary for service performed prior to July 1, 1983, and two and one-half percent (2.5%) of the final average salary for service performed after July 1, 1983, for all members not employed by a state college or university. The annual retirement allowance for each year of service performed by members of the Teachers' Retirement System who are members under the provisions of KRS 161.220(4)(b) or (n) shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section; and

(b) For individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2002, except those persons who become members under KRS 161.220(4)(b) or (n), and who upon retirement have earned less than ten (10) full years of service credit, the retirement allowance shall be two percent (2%) of the member's final average salary for each year of service. For individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2002, except those persons who become members under KRS 161.220(4)(b) or (n), and who upon retirement have earned at least ten (10) full years of service credit, the annual allowance for each year of service shall be two and one-half percent (2.5%) of the member's final average salary.

(c) The board of trustees may approve for members who initially retire on or after July 1, 2004, except those persons who are members under KRS 161.220(4)(b) or (n), a retirement allowance of three percent (3%) of the member's final average salary for each year of service credit earned in excess of thirty (30) years. This three percent (3%) factor shall be in lieu of the two and one-half percent (2.5%) factor provided for in paragraph (b) of this subsection for every year or fraction of a year of service in excess of thirty (30) years. Upon approval of this three percent (3%) retirement factor, the board of trustees may establish conditions of eligibility regarding the type of service credit that will qualify for meeting the requirements of this subsection. This subsection is optional with the board of trustees and shall not be subject to KRS 161.714.

(d) The retirement allowance of a member at retirement***, as measured on a life annuity,*** shall not exceed the member's last ***yearly salary***[~~annual compensation~~] or the member's final average salary, whichever is the greater amount. ***For purposes of this section, "yearly salary" means the compensation earned by a member during the most recent***

period of contributing service, either consecutive or nonconsecutive, preceding the member's effective retirement date and shall be subject to the provisions of Section 1(9) and (10) of this Act.

(2) Effective July 1, 2002, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option shall be increased in the amount of one and one-half percent (1.5%), provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase.

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than four hundred dollars ($400) effective July 1, 2002, and not less than four hundred forty dollars ($440) effective July 1, 2003, multiplied by the service credit years of the member. These minimums shall apply to the retired members receiving annuity payments and to those members retiring on or subsequent to the effective dates listed in this subsection.

(4) The minimum retirement allowance provided in this section shall apply in the case of members retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the member and his beneficiary or beneficiaries as provided in the duly-adopted option tables at the time of the member's retirement.

(5) Effective July 1, ***2004***[~~2002~~], the monthly allowance of each retired member and each recipient of a retirement option of the retired member may be increased in an amount not to exceed ***eight-tenths of one percent (0.8%)***[~~one and four-tenths percent (1.4%)~~] of the monthly allowance in effect the previous month, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase. The level of increase provided for in this subsection shall be determined by the funding provided in the 2002-2004 biennium budget appropriation.

(6) Effective July 1, ***2005***[~~2003~~], the monthly allowance of each retired member and each recipient of a retirement option of the retired member may be increased in an amount not to exceed ***seven-tenths of one percent (0.7%)***[~~one and one-half percent (1.5%)~~] of the monthly allowance in effect the previous month, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase. The level of increase provided for in this subsection shall be determined by the funding provided in the 2002-2004 biennium budget appropriation.

(7) Effective July 1, 1990, monthly payments of two hundred dollars ($200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental or physical condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of the child or until the time the mental or physical condition creating the dependency no longer exists or the child marries. Benefits under this subsection shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one (1) year prior to the death of the member. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.

(8) Members of the Teachers' Retirement System shall be subject to the annuity income limitations imposed by Section 415 of the Internal Revenue Service Code.

(9) Compensation in excess of the limitations imposed by Section 401(a)(17) of the Internal Revenue Code shall not be used in determining a member's retirement annuity. The limitation on compensation for eligible members shall not be less than the amount which was allowed to be taken into account by the retirement system in effect on July 1, 1993. For this purpose, an eligible member is an individual who was a member of the retirement system before the first plan year beginning after December 31, 1995.

Section 20. KRS 161.630 is amended to read as follows:

(1) A member, upon retirement, shall receive a retirement allowance in the form of a life annuity, with refundable balance, as provided in KRS 161.620, unless an election is made before the effective date of retirement to receive actuarially equivalent benefits under options which the board of trustees approves. No option shall provide for a benefit with an actuarial value at the age of retirement greater than that provided in KRS 161.620. This section does not apply to disability allowances as provided in KRS 161.661(1).

(2) The ***retirement***[~~benefit~~] option chosen by a retiree at the time of service retirement shall remain in force unless the retiree elects to make a change under the following conditions:

(a) A divorce, annulment, or marriage dissolution following retirement shall, at the election of the retiree, cancel any optional plan selected at retirement ***that provides***[~~to provide~~] continuing benefits to ***a spousal***[~~the~~] beneficiary and return the retiree to a single lifetime benefit equivalent as determined by the board; or

(b) Following marriage or remarriage, or the death~~[of a spouse, or the death]~~ of *the*~~[any other]~~ designated beneficiary, a retiree may elect a new optional plan of payment based on the actuarial equivalent of a single lifetime benefit at the time of the election, as determined by the board. The plan shall become effective the first of the month following receipt of an application on a form approved by the board.

(3) Except as otherwise provided in this section, a beneficiary designation shall not be changed after the effective date of retirement except for retirees who elect the~~[straight]~~ life annuity with refundable balance option or the predetermined years certain and life thereafter option.

(4) A member who experiences a qualifying event under subsection (2) of this section and who elects a new optional plan of payment shall make that election within sixty (60) days of the qualifying event.

Section 21. KRS 161.640 is amended to read as follows:

(1) Retirement annuities shall be payable monthly. The first payment to an annuitant shall be made at the payment date at the end of one (1) full payment period after his retirement and shall consist of one (1) regular monthly payment. Retirement for a member receiving one (1) full year of service credit during a fiscal year shall be no earlier than July 1 next following the end of such fiscal year. *Notwithstanding any other statutory provisions to the contrary, members filling positions that customarily require twelve (12) months of service during a fiscal year cannot retire prior to July 1 without a corresponding pro rata reduction in salary and service credit. The board of trustees may determine which positions customarily require twelve (12) months of service during a fiscal year.*

(2) The board of trustees may enter into agreements with retired members for payroll deductions when it is deemed in the best interest of the retired members and the retirement system.

(3) All new retirees, on or after July 1, 1998, shall receive their monthly annuity checks by electronic fund transfer. All annuity and survivor monthly allowance payments shall be made by electronic fund transfer by December 31, 1998.

Section 22. KRS 161.650 is amended to read as follows:

(1) In the case of death of a member who has retired by reason of service or disability, any portion of the member's accumulated contributions, including member contributions to the state accumulation fund and regular interest to the date of retirement, that has not, and will not be paid as an allowance or benefit shall be paid to the member's beneficiary in such manner as the board of trustees elects.

(2) The member may designate a primary beneficiary or two (2) or more co-beneficiaries to receive any remaining accumulated member contributions payable under this section. A contingent beneficiary may be designated in addition to the primary beneficiary or the co-beneficiaries. The member may designate two (2) or more contingent beneficiaries. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of any remaining accumulated member contributions. Any beneficiary designation made by the member shall remain in effect until changed by the member on forms prescribed by the retirement system, except in the event of subsequent divorce. A final divorce decree shall terminate the beneficiary status of an ex-spouse, unless subsequent to divorce the member redesignates the former spouse as a beneficiary. A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust. In the event that the member fails to designate a beneficiary, any remaining accumulated member contributions shall be payable to the member's estate.

Section 23. KRS 161.655 is amended to read as follows:

(1) Effective July 1, 2000, the Teachers' Retirement System shall*:*

(a) Provide a life insurance benefit in a minimum amount of five thousand dollars ($5,000) for its members who are retired for service or disability. This life insurance benefit shall be payable upon the death of a member retired for service or disability to the member's estate or to a party designated by the member on a form prescribed by the retirement system*; and*

(b) ~~[. The Teachers' Retirement System shall]~~Provide a life insurance benefit in a minimum amount of two thousand dollars ($2,000) for its active contributing members. This life insurance benefit shall be payable upon the death of an active contributing member to the member's estate or to a party designated by the member on a form prescribed by the retirement system.

(2) The member may name one (1) primary and one (1) contingent beneficiary for receipt of the life insurance benefit. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of the life insurance benefit. Any beneficiary designation made by the member shall remain in effect until changed by the member on forms prescribed by the retirement system, except in the event of subsequent divorce. A final divorce decree shall terminate the beneficiary status of an ex-spouse, unless subsequent to divorce the member redesignates the former spouse as a beneficiary. A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust.

(3) Application for payment of life insurance proceeds shall be made to the Teachers' Retirement System together with acceptable evidence of death and eligibility. The reciprocal provisions of KRS 61.680(2)(a) shall not apply to the coverage and payment of proceeds by the life insurance benefit under this section.

(4)~~[(2)]~~ Suit or civil action shall not be required for the collection of the proceeds of the life insurance benefit provided for by this section, but nothing in this section shall prevent the maintenance of suit or civil action against the beneficiary or

legal representative receiving the proceeds of the life insurance benefit.

Section 24. KRS 161.680 is amended to read as follows:

If any change or error in a record results in any ***individual***~~[employee or beneficiary]~~ receiving from the retirement system more or less than ***the individual***~~[he]~~ was entitled to receive, the board of trustees shall, when the error is discovered, correct the error, and as far as practicable adjust the payments so that the actuarial equivalent of the benefit to which ***the individual***~~[he]~~ was entitled shall be paid.

Section 25. The provisions of subsection (8) of Section 16 of this Act supercede the provisions relating to critical shortage positions set forth in 2003 Kentucky Acts ch. 156, sec.1.

Section 26. Whereas retirement annuity adjustments are implemented at the beginning of the fiscal year, an emergency is declared to exist, and this Act takes effect July 1, 2004.

The Committee Substitute to **HB 434** is as follows:

HB 434, AN ACT relating to retired teachers and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.220 is amended to read as follows:

As used in KRS 161.220 to 161.716 and KRS 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the commissioner of education, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any full-time teacher or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

  (a) Local boards of education;

  (b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;

  (c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;

  (d) The State Department of Education, the Education Professional Standards Board, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

  (e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

  (f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

  (g) ***Employees of the Council on Postsecondary Education who were employees of*** the Department for Adult Education and Literacy ***and who were members of the Kentucky Teachers' Retirement System at the time the department was transferred to the council pursuant to Executive Order 2003-600***~~[, except that the commissioner shall not be a member]~~;

  (h) The Department for Technical Education, except that the commissioner shall not be a member;

  (i) The Department of Vocational Rehabilitation;

  (j) The Kentucky Educational Collaborative for State Agency Children;

  (k) The Governor's Scholars Program;

  (l) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member;

(m) Employees of the Cabinet for Workforce Development who are transferred to the Kentucky Community and Technical College System and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement System coverage that would have previously been included in the Cabinet for Workforce Development, shall be members of the Teachers' Retirement System;

(n) Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky Community and Technical College System. New employees occupying positions in the Kentucky Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included in the Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and Technical College System, including participation in the Kentucky Teachers' Retirement System, on the same basis as faculty of the state universities as provided in KRS 161.540 and 161.620; and

(o) Employees of the Office of General Counsel, the Office of Budget and Administrative Services, and the Office of Quality and Human Resources within the Office of the Secretary of the Cabinet for Workforce Development and the commissioners of the Department for Adult Education and Literacy and the Department for Technical Education who were contributing to the Kentucky Teachers' Retirement System as of July 15, 2000;

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up member contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up member contributions. Additionally, the board of trustees may approve a final average salary based upon the average of the three (3) highest salaries for members who are at least fifty-five (55) years of age and have a minimum of twenty-seven (27) years of Kentucky service credit. However, if any of the five (5) or three (3) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for members of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS ***158.6455 or*** 158.782 on or after July 1, 1996. Under no circumstances shall annual compensation include compensation that is earned by a member while on assignment to an organization or agency that is not a public board, institution, or agency listed in subsection (4) of this section. In the event that federal law requires that a member continue membership in the retirement system even though the member is on assignment to an organization or agency that is not a public board, institution, or

agency listed in subsection (4) of this section, the member's annual compensation for retirement purposes shall be deemed to be the annual compensation, as limited by subsection (9) of this section, last earned by the member while still employed solely by and providing services directly to a public board, institution, or agency listed in subsection (4) of this section. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Employ," and derivatives thereof, means relationships under which an individual provides services to an employer as an employee, as an independent contractor, as an employee of a third party, or under any other arrangement as long as the services provided to the employer are provided in a position that would otherwise be covered by the Kentucky Teachers' Retirement System and as long as the services are being provided to a public board, institution, or agency listed in subsection (4) of this section;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up member contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. The retirement plan year is concurrent with this fiscal year. A contract for a member employed by a local board of education may not exceed two hundred sixty-one (261) days in the fiscal year;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up member contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year;

(21) "Full-time" means employment in a position that requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a fiscal year basis;

(22) "Full actuarial cost," when used to determine the payment that a member must pay for service credit means the actuarial value of all costs associated with the enhancement of a member's benefits or eligibility for benefit enhancements, including health insurance supplement payments made by the retirement system. The actuary for the retirement system shall determine the full actuarial value costs and actuarial cost factor tables as provided in KRS 161.400; and

(23) "Last annual compensation" means the annual compensation, as defined by subsection (10) of this section and as limited by subsection (9) of this section, earned by the member during the ***most recent period of contributing service, either consecutive or nonconsecutive, that is sufficient to provide the member with one (1) full year of service credit in the Kentucky Teachers' Retirement System, and which compensation is used in calculating the member's initial retirement allowance***[~~twelve (12) months immediately preceding the member's effective retirement date~~], excluding bonuses, retirement incentives, payments for accumulated sick, annual, personal and compensatory leave, and any other lump-sum payment.

Section 2. KRS 161.260 is amended to read as follows:

An election shall be held on or before June 1 of each year to elect trustees. The trustees to be elected each year shall depend upon the respective terms of the trustees elected under Acts 1938 (1st Ex. Sess.), Ch. 1, paragraph 7 and Acts 1940, Ch. 192, paragraph 7a, and KRS 161.250. Each trustee shall assume office on July 1 following his election and shall serve for a term of four (4) years. The elections shall be conducted by ballot under the supervision of the chief state school officer. Each person who is a contributing member ***as a result of full-time employment in a position covered by the retirement system*** or ***who is*** an annuitant of the retirement system shall have the right to vote. ***Each person who is a contributing member as a result of part-time or substitute employment in a position covered by the retirement system shall be permitted to vote as provided in Section 17 of this Act.*** Nominations for trustees shall be made by a nominating committee consisting of one (1) committee member selected by the retirement system membership of each of the districts of the Kentucky Education Association, and one (1) committee member to be selected by retired teachers, on a statewide basis, from among the annuitants of the retirement system. No person may be a member of the nominating committee who is not a member of the system, except for the committee member to be selected from among the annuitants of the system. The president of the Kentucky Education Association shall preside over the meeting of the nominating committee and the secretary of the Teachers' Retirement System shall act as secretary to the committee. Two (2) persons shall be nominated by the nominating committee for each position to be filled. All expenses of the election shall be paid by the board of trustees out of its general expense fund.

Section 3. KRS 161.340 is amended to read as follows:

(1) The board of trustees shall elect from its membership a chairperson and a vice chairperson on an annual basis as prescribed by the administrative regulations of the board of trustees. The board of trustees shall employ an executive secretary by means of a contract not to exceed a period of four (4) years and fix the compensation and other terms of employment for this position without limitation of the provisions of KRS Chapters 18A, 45A, 56, and KRS 64.640. The executive secretary shall be the chief administrative officer of the board. The executive secretary, at the time of employment, shall be a graduate of a four (4) year college or university, and shall possess qualifications as the board of trustees may require. The executive secretary shall not have held by appointment or election an elective public office within the five (5) year period next preceding the date of employment.

(2) The board shall employ clerical, administrative, and other personnel as are required to transact the business of the retirement system. The compensation of all persons employed by the board shall be paid at the rates and in amounts as the board approves. Anything in the Kentucky Revised Statutes to the contrary notwithstanding, the power over and the control of determining and maintaining an adequate complement of employees in the system shall be under the exclusive jurisdiction of the board of trustees.

(3) The board shall contract for actuarial, auditing, legal, medical, investment counseling, and other professional or technical services as are required to carry out the obligations of the board in accordance with the provisions of this chapter without limitations, including KRS Chapters 12, 13B, 45, 45A, 56, and 57***,*** and shall provide for legal counsel and other legal services as may be required in defense of trustees, officers, and employees of the system who may be subjected to civil action arising from the performance of their legally assigned duties if counsel and services are not provided by the Attorney General.

(4) The board shall require the trustees, executive secretary, and employees it determines proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.

(5) The board of trustees may expend funds from the expense fund as necessary to insure the trustees, employees, and officials of the Teachers' Retirement System against any liability arising out of an act or omission committed in the scope and course of performing legal duties.

(6) Notwithstanding any statute to the contrary, employees shall not be considered legislative agents as defined in KRS 6.611.

Section 4. KRS 161.420 is amended to read as follows:

All of the assets of the retirement system are for the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system. The board of trustees shall be the trustee of all funds of the system and shall have full power and responsibility for administering the funds. It is hereby declared that the restrictions and rights provided herein shall not be subject to reduction or impairment by alteration, amendment, or repeal. All the assets of the retirement system shall be credited according to the purpose for which they are held to one (1) of the following funds:

(1) The expense fund shall consist of the funds set aside from year to year by the board of trustees to defray the expenses of the administration of the retirement system. Each fiscal year an amount not greater than four percent (4%) of the dividends and interest income earned from investments during the immediate past fiscal year shall be set aside into the expense fund or expended for the administration of the retirement system;

(2) The teachers' savings fund shall consist of the contributions paid by members of the retirement system into this fund and regular interest assigned by the board of trustees from the guarantee fund. A member may not borrow any amount of his or her accumulated contributions to this fund, or any interest earned thereon. The accumulated contributions of a member returned to him upon his withdrawal or paid to his estate or designated beneficiary in the event of his death shall be paid from the teachers' savings fund. Any accumulated contributions forfeited by a failure of a teacher or his estate to claim these contributions shall be transferred from the teachers' savings fund to the guarantee fund. The accumulated contributions of a member shall be transferred from the teachers' savings fund to the allowance reserve fund in the event of retirement by reason of service or disability;

(3) The state accumulation fund shall consist of funds appropriated by the state for the purpose of providing annuities ***and***[~~,~~] survivor benefits,[~~, and death benefits,~~] including any sums appropriated for meeting unfunded liabilities, together with regular interest assigned by the board of trustees from the guarantee fund. At the time of retirement or death of a member there shall be transferred from the state accumulation fund to the allowance reserve fund an amount which together with the sum transferred from the teachers' savings fund will be sufficient to provide the member a retirement allowance and provide for benefits under KRS 161.520 ***and***[~~,~~] 161.525[~~, and 161.655~~];

(4) The allowance reserve fund shall be the fund from which shall be paid all retirement allowances and benefits provided under KRS 161.520 ***and***[~~,~~] 161.525[~~, and 161.655~~]. In addition, whenever a change in the status of a member results in an obligation on this fund, there shall be transferred to this fund from the teachers' savings fund and the state accumulation fund, the amounts as may be held in those funds for the account or benefit of the member;

(5) The medical insurance fund shall consist of amounts accumulated for the purpose of providing benefits as provided in KRS 161.675. One and five tenths percent (1.5%) of the gross annual payroll of all members shall be deposited to this fund. One-half (1/2) of this amount shall derive from member contributions and one-half (1/2) from a state appropriation. The board of trustees may allocate the three and twenty-five hundredths percent (3.25%) of the total salaries of active members that the state appropriates annually as provided under KRS 161.550. ***In addition, the medical insurance fund shall be funded by the employer medical insurance fund stabilization contribution as set forth in Section 12 of this Act.***

The medical insurance fund shall receive all interest income from the investments of the fund. All claims for benefits under KRS 161.675 shall be paid from this fund. Any amounts not required to meet current costs shall be maintained as a reserve for these benefits;

(6) The guarantee fund shall be maintained to facilitate the crediting of uniform interest on the amounts of the other funds, except the expense fund, to finance operating expenses directly related to investment management services, and to provide a contingent fund out of which special requirements of any of the other funds may be covered. All income, interest, and dividends derived from the authorized deposits and investments shall be paid into the guarantee fund. Any funds received from gifts and bequests, which the board is hereby authorized to accept and expend without limitation in a manner either expressed by the donor or deemed to be in the best interest of the membership, shall be credited to the guarantee fund. Any funds transferred from the teachers' savings fund by reason of lack of claimant or because of a surplus in any fund and any other moneys whose disposition is not otherwise provided for, shall also be credited to the guarantee fund. The interest allowed by the board of trustees to each of the other funds shall be paid to these funds from the guarantee fund. Any deficit occurring in any fund that would not be automatically covered shall be met by the payments from the guarantee fund to that fund. The board of trustees may, at any time during a fiscal year, transfer from the guarantee fund to the medical insurance fund an amount not to exceed four percent (4%) of the income earned from investments during the immediate past year;

(7) The school employee annuity fund shall consist of those funds voluntarily contributed under the provisions of section 403(b) of the Internal Revenue Code by a retired member of the Teachers' Retirement System with accounts that existed on or after July 1, 1996. The contributions shall not be picked up as provided in KRS 161.540(2). Separate member accounts shall be maintained for each member. The board of trustees may promulgate administrative regulations pursuant to KRS Chapter 13A to manage this program;

(8) The supplemental retirement benefit fund shall consist of those funds contributed by the employer for the purpose of constituting a qualified government excess benefit plan as described in Section 415 of the Internal Revenue Code for accounts that existed on or after July 1, 1996. The board of trustees may promulgate administrative regulations pursuant to KRS Chapter 13A to administer this program; ***and***

(9)[~~The defined contribution fund shall consist of those funds contributed by retired members who have been approved by the retirement system for full-time reemployment in a position covered by the retirement system and contributions made by the employer for the purpose of providing separate retirement allowances for periods of reemployment. Separate member accounts shall be maintained for each member. The board of trustees may promulgate administrative regulations pursuant to KRS Chapter 13A to administer this program. The contributions shall not be picked up as provided in KRS 161.540(2); and~~

~~(10)~~] The life insurance benefit fund shall consist of amounts accumulated for the purpose of providing benefits provided under KRS 161.655. The board of trustees may allocate to this fund a percentage of the employer and state contributions as provided under KRS 161.550. The allocation to this fund will be in an amount that the actuary determines necessary to fund the obligation of providing the benefits provided under KRS 161.655.

Section 5. KRS 161.430 is amended to read as follows:

(1) The board of trustees shall be the trustee of the funds of the retirement system and shall have full power and responsibility for the purchase, sale, exchange, transfer, or other disposition of the investments and moneys of the retirement system. The board shall, by administrative regulation, establish investment policies and procedures to carry out their responsibilities. The board shall employ experienced competent investment counselors to advise it on all matters pertaining to investment, except the board may employ qualified investment personnel to advise it on investment matters not to exceed fifty percent (50%) of the book value of the system's assets. All individuals associated with the investment and management of retirement system assets, whether contracted investment advisors or staff employees, shall adhere to "The Code of Ethics" and "The Standards of Professional Conduct" promulgated by the Association for Investment Management and Research. Effective July 1, 1991, no investment counselor shall manage more than forty percent (40%) of the funds of the retirement system. The board may appoint an investment committee consisting of the executive secretary and two (2) trustees to act for the board in all matters of investment, subject to the approval of the board of trustees. The board of trustees, in keeping with their responsibilities as trustees and wherever consistent with their fiduciary responsibilities, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth. Toward this end, the board shall develop procedures for informing the business community of the potential for in-state investments by the retirement fund, accepting and evaluating applications for the in-state investment of funds, and working with members of the business community in executing in-state investments which are consistent with the board's fiduciary responsibilities. The board shall include in the criteria it uses to evaluate in-state investments their potential for creating new employment opportunities and adding to the total job pool in Kentucky. The board may cooperate with the board of trustees of Kentucky Retirement Systems in developing its program and procedures, and shall report to the Legislative Research Commission annually on its progress in placing in-state investments. The first report shall be submitted by October 1, 1991, and subsequent reports shall be submitted by October 1 of each year thereafter. The report shall include the number of applications for in-state investment received, the nature of the investments proposed, the amount requested, the amount invested, and the percentage of applications which resulted in investments.

(2) The board members and investment counselor shall discharge their duties with respect to the assets of the system solely in

the interests of the active contributing members and annuitants and:

(a) For the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system;

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent ***person***[~~man~~] acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims;

(c) By diversifying the investments of the plan so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so; and

(d) In accordance with the laws, administrative regulations, and other instruments governing the system.

(3) (a) In choosing and contracting for professional investment management services the board must do so prudently and in the interest of the members and annuitants. Any contract that the board makes with an investment counselor shall set forth policies and guidelines of the board with reference to standard rating services and specific criteria for determining the quality of investments. Expenses directly related to investment management services shall be financed from the guarantee fund in amounts approved by the board.

(b) An investment counselor appointed under this section shall acknowledge in writing his fiduciary responsibilities to the fund. To be eligible for appointment, an investment counselor must be:

1. Registered under the Federal Investment Advisors Act of 1940; or
2. A bank as defined by that Act; or
3. An insurance company qualified to perform investment services under the laws of more than one (1) state.

(4) No investment or disbursement of funds shall be made unless authorized by the board of trustees, except that the board, in order to ensure timely market transactions, shall establish investment guidelines, by administrative regulation, and may permit its staff and investment counselors employed pursuant to this section to execute purchases and sales of investment instruments within those guidelines without prior board approval.

Section 6. KRS 161.480 is amended to read as follows:

Each person, upon becoming a member of the retirement system, shall file a detailed statement as required by the board of trustees and shall designate a primary beneficiary ***or two (2) or more co-beneficiaries*** to receive any benefits accruing from the death of the member. A contingent beneficiary may be designated in addition to the primary beneficiary ***or co-beneficiaries. The member may name more than one (1) contingent beneficiary***. Any beneficiary designation made by the member shall remain in effect until changed by the member on forms prescribed by the Kentucky Teachers' Retirement System, except in the event of subsequent marriage or divorce. Subsequent marriage by the member shall void the primary beneficiary ***and any co-beneficiary*** designation and the spouse of the member at death shall be considered as the primary beneficiary, unless the member subsequent to marriage designates another beneficiary. A final divorce decree shall terminate an ex-spouse's status as either primary ***beneficiary, co-beneficiary,*** or contingent beneficiary, unless subsequent to divorce the member redesignates the former spouse as primary ***beneficiary, co-beneficiary,*** or contingent beneficiary. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of a member's contributions to the retirement system as provided under KRS 161.470(7)[~~ and 161.650, and for receipt of the life insurance benefit provided under KRS 161.655~~]. ***A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust.*** The provisions of this section shall be retroactive as they relate to election of beneficiaries by members still in active status on the effective date of this section. ***The provisions of this section shall not apply to any account from which a member is drawing a retirement allowance or to the life insurance benefit available under Section 23 of this Act.***

Section 7. KRS 161.507 is amended to read as follows:

(1) An active contributing member of the Teachers' Retirement System may receive service credit for active service rendered in the uniformed services of the Armed Forces of the United States, including the commissioned corps of the Public Health Service, subject to the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 and to administrative regulations promulgated by the board of trustees. Military service includes service in the uniformed services that occurs before the employment of a member in a position covered by the retirement system or where a member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services. Service in the uniformed services also includes uniformed service that occurs after employment in a position covered by the retirement system where the member has given advance written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment. Military service may be credited only if discharge was honorable or was not terminated upon the occurrence of any of the events listed in 38 U.S.C. sec. 4304. Service shall be considered as Kentucky teaching service, except that service may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1) unless the service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returned directly from uniformed services to covered employment. A maximum of six (6) years of military service may be credited, but in no case a greater number of years than the actual years of contributing service in Kentucky.

(2) No credit shall be granted for military service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

(3) A member having twenty (20) years or more of active duty in the military service, and who is qualified for regular federal retirement benefits based on this military service, may not receive credit for any military service in the Teachers' Retirement System. This subsection shall apply to service presented for credit on July 1, 1975, and after this date.

(4) (a) A member receiving retirement credit for active duty in the armed services of the United States prior to employment in a position covered by the retirement system or where the member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services shall pay to the retirement system the full actuarial cost of the service credit purchased as provided under KRS 161.220(22).~~[Two percent (2%) of the required payment shall be allocated to the medical insurance fund.]~~ These contributions shall not be picked up, as described in KRS 161.540(2). In purchasing retirement credit for active duty in the armed services, the latest years of service shall be considered first in allowing credit toward retirement. The board of trustees shall adopt a table of actuarial factors to be used in calculating the amount of contribution required for crediting this service.

(b) If military service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment, the member shall contribute the regular member contribution required by KRS 161.540. The member may make the payment of delayed contributions in a lump sum payment or in installments not to exceed five (5) years beginning with the member's date of reemployment. Interest at the rate of eight percent (8%) per annum shall be charged for delayed contributions beginning with the member's date of reemployment until paid.

(5) An active contributing member of the Teachers' Retirement System may receive service credit for service in the military reserves of the United States or the National Guard. The member may purchase one (1) month of service for each six (6) months of service in the reserves or the National Guard. Notwithstanding any other statute, regulation, or policy to the contrary, the system shall provide a member, upon request, the estimated actuarial cost of the National Guard or military reserves service purchase based upon the information available at the time of the request. The member shall be entitled to enter into a contract with the system at the time of the request to purchase the National Guard or military reserve service by paying to the system the estimated actuarial cost, either by installments or in lump sum. The member shall pay the full actuarial cost of this service in the military reserves or the National Guard as provided in KRS 161.220(22). Service in the military reserves or the National Guard shall be treated as service earned prior to participation in the system and shall not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). The payment shall not be picked up by the employer, as described in KRS 161.540(2).

Section 8. KRS 161.515 is amended to read as follows:

(1) For the purposes of this section, "out-of-state service" shall mean service in any state in a comparable position ***on a full-time basis***, which would be covered if in Kentucky.

(2) (a) An active contributing member who has been a contributing member of the retirement system for at least one (1) full scholastic year subsequent to the latest out-of-state service, may present for credit service rendered out of state, not to exceed ten (10) years actually taught as a certified or licensed teacher. With the exception of university faculty members, all members who elect to purchase this service shall pay to the retirement system an amount equal to the current member contribution rate based on the first Kentucky salary of the member subsequent to the out-of-state service, provided this service was rendered after June 30, 1983. In the event this service was rendered prior to July 1, 1983, the contribution rate shall be seven and eighty-four hundredths percent (7.84%). University faculty members shall pay on a contribution rate of seven and eighty-four hundredths percent (7.84%) based on the first Kentucky salary subsequent to the out-of-state service, regardless of when the service was rendered. Members shall pay to the retirement system the employer contribution at the rates set forth in KRS 161.550. In addition, all members shall pay interest on the contributions for this service at a rate to be set by the board of trustees on each annual contribution from the last day of the scholastic year in which the service was rendered to date of payment to the retirement system. The payments shall not be picked up as described in KRS 161.540(2). For each year of which the retirement system shall accept the contribution and interest, one (1) year of service credit shall be given. This credit may not be used to meet the service requirements of KRS 161.525, 161.600, or 161.661, except as provided in subsection (2)(c) of this section. No credit shall be granted for service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds;

(b) A member of the retirement system having teaching service in the elementary or secondary schools operated by the United States overseas or in this country, or in a public college or university in Kentucky, not included in the Teachers' Retirement System of the State of Kentucky, may present this service for credit in the retirement system on the same basis as provided above for out-of-state service credit; however, no service may be presented which shall be used as a basis for retirement benefits in any program supported wholly or in part by a public institution or governmental agency. This service when added to service credited under subsection (2)(a) of this section shall not exceed a total of ten (10) years' service credit; and

(c) A member having service referred to in subsection (2)(a) or (2)(b) of this section may elect to use this service for meeting the requirements of KRS 161.600(1)(c) by making an additional contribution to the state accumulation fund equal to a member contribution rate of eight percent (8%) for each year so used. These payments shall not be picked up as described in KRS 161.540(2). The salary base to be used in determining this additional contribution shall be the final average salary which is used in calculating the member's regular retirement annuity.

(3) Members entering the Teachers' Retirement System for the first time, July 1, 1976, and after this date, shall not receive credit for service defined in subsections (2)(a) or (2)(b) of this section in excess of one (1) year of credit for each two (2) years of Kentucky service in a covered position or ten (10) years, whichever is the lesser number.

(4) A member, having completed service as a volunteer in the Kentucky Peace Corps created by KRS 154.01-720, may purchase service credit for the time served in the corps on the same basis as provided in this section for the purchase of out-of-state service credit. A member, having completed service as a federal Peace Corps volunteer, may purchase up to two (2) years of service credit for time served in the Peace Corps on the same basis as provided in this section for the purchase of out-of-state service credit.

(5) Notwithstanding any other provisions of this section to the contrary, purchase of service credit for out-of-state teaching, Kentucky Peace Corps, and federal Peace Corps service on July 1, 2005, or thereafter shall be purchasable only at full actuarial cost.

Section 9. KRS 161.520 is amended to read as follows:

Upon the death of an active contributing member or upon the death of a member retired for disability, except as provided in KRS 161.661(6), the survivors of the deceased member in the following named order, may elect to receive a survivor's benefit payable as follows:

(1) Where there is a surviving widow or widower who is named as *the primary* beneficiary of the member's retirement account, the benefit shall be:

(a) One hundred eighty dollars ($180) per month with no restriction on other income;

(b) Two hundred forty dollars ($240) per month when the surviving widow or widower's total income from all sources does not exceed six thousand six hundred dollars ($6,600) per year or five hundred fifty dollars ($550) per month; or

(c) If the deceased member has a minimum of ten (10) years of service credit with the Teachers' Retirement System, the surviving widow or widower may apply for an annuity actuarially equivalent to the annuity that would have been paid to the deceased member when eligibility conditions were met. Eligibility for payments would begin at the time the age of the deceased member would have met the requirements of KRS 161.600(1). In exercising this right, the surviving widow or widower shall be entitled to receive an annuity for life, except as provided in subsection (6) of this section. This subsection applies to surviving spouses of members who die on or after July 1, 1978. A surviving widow or widower of a member who dies after July 1, 1978, shall be eligible for benefit payments provided under paragraphs (a) and (b) of this subsection until they begin receiving payments under this provision.

(2) Where there are surviving unmarried children under age eighteen (18) or under age nineteen (19) if a full-time student in high school, the benefit shall be two hundred dollars ($200) per month in the case of one (1) child, three hundred forty dollars ($340) per month in the case of two (2) children, four hundred dollars ($400) per month in the case of three (3) children, and four hundred forty dollars ($440) per month in the case of four (4) or more children. Benefits under this subsection shall apply in addition to benefits which may be payable under subsections (1) and (3) of this section.

(3) Where the survivor is a child age eighteen (18) or older whose mental or physical condition is sufficient to cause his dependency on the deceased member at the time of the member's death, the benefit shall be two hundred dollars ($200) per month, payable for the life of the child or until the time as the mental or physical condition creating the dependency no longer exists or the child marries. Benefits under this subsection and subsection (2) of this section shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one (1) year prior to the death of the member. The mental or physical condition of the adult child shall be revealed by a competent examination by a licensed physician and shall be approved by a majority of a medical review committee as defined in KRS 161.661(13). Benefits under this subsection shall apply in addition to benefits which may be payable under subsections (1) and (2) of this section.

(4) Where the sole eligible survivors are dependent parents aged sixty-five (65) or over, the benefit shall be two hundred dollars ($200) per month for one (1) parent or two hundred ninety dollars ($290) per month for two (2) parents. Dependency of a parent shall be established as of the date of the death of the member.

(5) Where the sole eligible survivor is a dependent brother or sister, the benefit shall be one hundred sixty five dollars ($165) per month. In order to qualify the brother or sister must have been a resident of the deceased member's household for at least one (1) full year prior to the member's death or must have been receiving care in a hospital, nursing home, or other institution at the member's expense for same period.

(6) The benefit to a child as defined in subsection (2) of this section shall terminate upon the attainment of age eighteen (18) or upon reaching age nineteen (19), if a full-time student in high school, or upon marriage, except that benefits shall continue until the attainment of age twenty-three (23) for an unmarried child who is a full-time student in a recognized educational program beyond the high school level. The benefit to a widow, widower, dependent parent, or dependent brother or sister or dependent child age eighteen (18) or older shall terminate upon marriage, or upon termination of the condition creating the dependency.

(7) The board of trustees shall be the sole judge of eligibility or dependency of any beneficiary, and may require formal application or information relating to eligibility or dependency, including proof of annual income satisfactory to the board. The board of trustees may subpoena records and individuals whenever it deems this action necessary.

(8) No payment of benefits shall be made unless the board of trustees authorizes the payment. The board shall promulgate administrative regulations for the administration of the provisions in this section and in every case the decision of the board of trustees shall be final as to eligibility, dependency, or disability, and the amount of benefits payable.

(9) In the event that there are no eligible survivors as defined in subsections (1) to (5) of this section, the board of trustees shall pay to the estate or assigns of the deceased member a refund of his accumulated contributions as provided in KRS 161.470(7). If the benefits paid or payable under subsections (1) to (5) of this section and KRS 161.661 shall amount to a sum less than the member's accumulated contributions at the time of death, the board of trustees shall pay to the estate or assigns of the deceased member the balance of the accumulated contributions.

(10) Any person who is receiving benefits and becomes disqualified from receiving those benefits under this section shall immediately notify the Teachers' Retirement System of this disqualification in writing and shall return all benefits paid after the date of disqualification. Failure to comply with these provisions shall create an indebtedness of that person to the Teachers' Retirement System. Interest at the rate of eight percent (8%) per annum shall be charged if the debt is not repaid within sixty (60) days after the date of disqualification. Failure to repay this debt creates a lien in favor of the Teachers' Retirement System upon all property of the person who improperly receives benefits and does not repay those benefits.

Section 10. KRS 161.525 is amended to read as follows:

(1) Upon death of a member in active contributing status at the time of death, who was eligible to retire by reason of service, the spouse, if named as ***the primary*** beneficiary of the member's retirement account, or in the absence of an eligible spouse a legal dependent of the member, if named as ***the primary*** beneficiary, shall be entitled to elect, in lieu of a refund of the member's account or benefits provided in KRS 161.520, an annuity actuarially equivalent at the attained age of the beneficiary to the annuity that would have been paid to the deceased member had retirement been effective on the day immediately preceding the member's death. Under the provisions of KRS 61.680, benefits shall be processed as if the member retired for service. In exercising this right the spouse or legal dependent shall be limited to selecting an option providing either a straight life annuity with refundable balance or a term certain option. A spouse may receive the annuity provided by this section at the same time as children are qualifying for survivors' benefits under the provisions of KRS 161.520; however, a legal dependent, other than a spouse, may not receive these payments if children have qualified for benefits under that section.

(2) A spouse~~[or legal dependent]~~ qualifying for an annuity under subsection (1) of this section may defer the payments in order to reduce the actuarial discounts to be applied due to age.

(3) Upon death of a member in active contributing status at the time of his death, who had a minimum of twenty-seven (27) years of service, the spouse, if named as the ***primary*** beneficiary of the member's account shall be entitled to a monthly minimum allowance of three hundred dollars ($300) as the basic straight life annuity. This provision applies to surviving spouses of members who were receiving benefit payments under KRS 161.520 as of June 30, 1986, and to surviving spouses of members who die on or after July 1, 1986.

Section 11. KRS 161.545 is amended to read as follows:

(1) Members may make contributions and receive service credit for substitute, part-time, or any service other than regular full-time teaching as provided in the administrative regulations of the board of trustees if contributions were not otherwise made as a result of the service. Members placed on leave of absence may make contributions and receive service credit for this leave only if contributions are made by the end of the fiscal year next succeeding the year in which the leave was effective as provided in administrative regulations promulgated by the board of trustees. Contributions permitted after August 1, 1982, shall not be picked-up pursuant to KRS 161.540(2).

(2) Active contributing members of the Teachers' Retirement System, or former members who are currently participating in a state-administered retirement system, who were granted leaves of absence since July 1, 1964, for reasons of health ***as defined under the Federal Family Medical Leave Act of 1993, 29 U.S.C. secs. 2601 et seq.***, child rearing, or to improve their educational qualifications, and did not qualify at the time of the leave of absence to make contributions to the retirement system for the leave of absence as provided in subsection (1) of this section, may obtain credit for the leave of absence under the following conditions:

  (a) The leave of absence shall be verified by a copy of the board of education minutes which granted the leave of absence ***or by other documentation that was generated contemporaneously with the leave that is determined by the retirement system to reasonably establish that a leave of absence was granted***; and

  (b) The member shall contribute the required percentage based on the salary received for the year immediately preceding the leave of absence plus interest at the rate of eight percent (8%) compounded annually from the beginning of the school year following the year of the leave of absence, and by depositing in the state accumulation fund an amount equal to this total.

  (c) The member shall receive credit for no more than two (2) years under the provisions of this subsection.

(3) Contributions permitted under this section after August 1, 1982, shall not be picked-up pursuant to KRS 161.540(2).

Section 12. KRS 161.550 is amended to read as follows:

(1) Beginning with July 1, each employer, except as provided under KRS 161.555, shall contribute annually to the retirement system a permanent amount equal to that contributed by members of the retirement system it employs plus an additional three and one-fourths percent (3.25%) of the total of salaries of members of the retirement system it employs to discharge the system's unfunded obligations with interest assumed by the state and to provide funding to the medical insurance fund as provided under KRS 161.420(5).

(2) In addition to the required contributions in subsection (1) of this section, each employer shall contribute annually to the retirement system a percentage of the total salaries of the members it employs to provide stabilization funding for the medical insurance fund. This contribution shall be known as the employer medical insurance fund stabilization contribution. The percentage to be contributed by the employer shall be determined by the retirement system's actuary for each biennial budget period. The percentage to be contributed by the employer may be suspended or adjusted by the General Assembly if in its judgment the welfare of the Commonwealth so demands.

(3) Each employer shall remit the required employer contributions to the retirement system under the terms and conditions specified for member contributions under KRS 161.560. The state shall provide annual appropriations based upon estimated funds needed to meet the requirements of KRS 161.155; 161.507(4); 161.515; 161.545; 161.553; 161.605; 161.612; and 161.620(1), (3), (5), (6), and (7). In the event an annual appropriation is less than the amount of these requirements, the state shall make up the deficit in the next biennium budget appropriation to the retirement system. Employer contributions to the retirement system are for the exclusive purpose of providing benefits to members and annuitants and these contributions shall be considered deferred compensation to the members.

Section 13. KRS 161.553 is amended to read as follows:

(1) The cost of providing statutory benefit improvements for annuitants may be funded by annual appropriations from the state on an actuarial amortized basis over the lifetime of the annuitants. The schedules in subsections (1)(a), (1)(b), and (1)(c) of this section are the annual appropriations which shall be made by the state for benefit improvements approved in the respective fiscal years or bienniums prior to July 1, ***2006***[~~2004~~]:

(a) Cost of Living Allowance	***2004-2005***[~~2002-2003~~]	Each Succeeding Fiscal Year
[~~1988-1990~~	~~$5,761,700~~	~~$2,972,700 in 2003-2004~~]
1990-1992	$4,901,700	[~~$4,901,700 through 2004-2005 and~~] $2,486,800 in 2005-2006
1992-1994	$2,229,400	$2,229,400 through 2006-2007 and $1,125,700 in 2007-2008
1994-1996	$6,142,000	$6,142,000 through 2010-2011
1996-1998	$4,459,000	$4,459,000 through 2010-2011
1998-2000	$15,333,900	$15,333,900 through 2012-2013 and

		$7,938,600 through 2013-2014
2000-2002	$12,511,400	$12,511,400 through 2014-2015
		and
		$7,227,700 in 2015-2016
2002-2004	***$21,405,700***~~[$4,406,000~~	~~$9,213,400 in 2003-2004]~~
		$21,405,700~~[$21,405,600]~~ through 2021-2022
		and
		$11,204,100~~[$11,204,000]~~ in 2022-2023
2004-2006	***$7,992,300***	***$15,413,700 through 2023-2024***
		and
		$7,421,400 in 2024-2025
(b) Minimum Value ***2004-2005***~~[2002-2003]~~		Each Succeeding Fiscal Year
Annuities		
~~[1988-1990~~	~~$1,718,200~~	
		~~$879,500 in 2003-2004]~~
1990-1992	$2,246,900	~~[$2,246,900 through 2004-2005~~
		~~and]~~
		$1,232,100 in 2005-2006
1992-1994	$2,217,700	$2,217,700 through 2006-2007
1994-1996	$2,126,000	$2,126,000 through 2008-2009
2002-2004	***$3,375,900***~~[$694,800~~	~~$1,451,800 in 2003-2004]~~
		$3,375,900 through 2016-2017
		and
		$2,027,800 in 2017-2018

(c)

Sick Leave *2004-2005*[~~2002-2003~~] Allowance		Each Succeeding Fiscal Year
1998-2000	$4,660,300	$4,660,300 through 2012-2013 and $2,425,900 through 2013-2014
2000-2002	$6,167,100	$6,167,100 through 2014-2015 and $3,579,100 in 2015-2016
2002-2004	*$6,282,500*[~~$3,668,400~~]	*$6,282,500*[~~$7,636,700~~] through 2021-2022 and $3,968,300 in 2022-2023
2004-2006	*$3,669,700*	*$8,009,200 through 2023-2024* *and* *$4,339,500 in 2024-2025*

(2) The present values of providing statutory cost-of-living increases for annuitants not included in subsection (1) of this section are to be assigned to the unfunded obligations of the retirement system and are identified as follows:

1986-1988	$34,689,893
1990-1992	$68,107,473
1992-1994	$15,749,976

Section 14. KRS 161.597 is amended to read as follows:

(1) A member in active contributing status may purchase any service credit which the member is authorized to purchase by making installment payments in lieu of a lump-sum payment.

(2) To initiate an installment payment plan, a member shall make a written request to the retirement system for an estimate to purchase service credit by making installment payments.

(3) To qualify for installment payments, the *total cost of the service purchase, including any chargeable interest,*[~~member contribution plus interest of eight percent (8%) per annum~~] shall exceed one thousand dollars ($1,000).

(4)[~~A member may select the service credit to be purchased by installment payments and that service credit shall be purchased before any other credit may be purchased by installment payments.~~

~~(5)~~] Installment payments shall be at least fifty dollars ($50) per month and shall be made for a period of time which is not less than twelve (12) months nor more than sixty (60) months. *Interest at eight percent (8%) per annum, unless the board specifies in an administrative regulation a different interest rate, shall be charged on all installment payment purchases of service credit that are purchasable at less than full actuarial cost.*

(5)[~~(6)~~] Installment payments shall be made on a monthly basis by payroll deduction or electronic fund transfer and forwarded separately to the Teachers' Retirement System on forms or by computer format not later than fifteen (15) days following the end of each month. The payments shall be considered accumulated contributions and shall not be picked up as provided in KRS 161.560*, except that subject to approval by the Internal Revenue Service and only as permitted by the Internal Revenue Code, installment payments by payroll deduction shall be made on a tax-deferred basis*.

(6)[~~(7)~~] A member may elect to terminate payroll deductions at any time and purchase the remaining service credit by lump-sum payment. A member on a leave of absence may make personal installment payments. Termination of employment in a covered position shall terminate installment payments. If the member is later employed by a different employer in a covered position, the member may request a new estimate and reinstate installment payments. A member that misses two (2) consecutive installment payments shall be in default. A member in default shall receive service credit on a pro rata basis for the total amount of contributions made by installment payments. A member in default may not reinstate installment payments for twelve (12) months from the date the member was in default.

(7)[~~(8)~~] If a member dies before completing scheduled installment payments, the named beneficiary of the member's retirement account may pay the remaining balance due by a lump-sum payment within thirty (30) days of the death of the member.

Section 15. KRS 161.600 is amended to read as follows:

(1) Effective July 1, 1988, a member of the retirement system may qualify for service retirement by meeting one (1) of the following requirements:

(a) Attainment of age sixty (60) years and completion of five (5) years of Kentucky service;

(b) Attainment of age fifty-five (55) years and completion of a minimum of five (5) years of Kentucky service with an actuarial reduction of the basic allowance of five percent (5%) for each year the member's age is less than sixty (60) years or for each year the member's years of Kentucky service credit is less than twenty-seven (27), whichever is the lesser number;[~~ or~~]

(c) Completion of twenty-seven (27) years of Kentucky service. Out-of-state service earned in accordance with the provisions of KRS 161.515(2) may be used to meet this requirement***; or***

(d) Completion of the necessary years of service under provisions of KRS 61.559(2)(c) if the member is retiring under the reciprocity provisions of KRS 61.680. A member retiring under this paragraph who has not attained age fifty-five (55) shall incur an actuarial reduction of the basic allowance determined by the system's actuary for each year the member's service credit is less than twenty-seven (27).

(2) Any person who has been a member in Kentucky for twenty-seven (27) years or more and who withdraws from covered employment may continue to pay into the fund each year until the end of the fiscal year in which he reaches the age of sixty-five (65) years, the current contribution rate based on the annual compensation received during the member's last full year in covered employment, less any payment received for accrued sick leave or accrued leave from an employer. The member shall be entitled to receive a retirement allowance as provided in KRS 161.620 at any time after withdrawing from covered employment and payment of contributions under this subsection. No member shall make contributions as provided for in this subsection if the member is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.

(3) Service credit in the Kentucky Employees Retirement System, the State Police Retirement System, the Legislators' Retirement Plan, the County Employees Retirement System, or the Judicial Retirement System may be used in meeting the service requirements of subsection (1)(a), (b), and (c) of this section, provided the service is subsequent to July 1, 1956. Upon death, disability, or service retirement, a member's accounts under all state supported retirement systems shall be consolidated, as provided by this section and by KRS 61.680, for the purpose of determining eligibility and amount of benefits, which shall include medical benefits. Upon determination of benefits, each system shall pay the applicable percentage of total benefits. The effective date of retirement under this subsection shall be determined by each retirement system for the portion of the payments that will be made.

(4) No retirement annuity shall be effective until written application and option election forms are filed with the retirement office in accordance with administrative regulations of the board of trustees.

(5) The surviving spouse of an active contributing member, if named as beneficiary of the member's account, may purchase retirement credit that the member was eligible to purchase prior to the member's death.

Section 16. KRS 161.605 is amended to read as follows:

Any member retired by reason of service may return to work in a position covered by the Kentucky Teachers' Retirement System and continue to receive his or her retirement allowance under the following conditions:

(1) Any member who is retired with thirty (30) or more years of service may return to work in a full-time or a part-time position covered by the Kentucky Teachers' Retirement System and earn up to a maximum of seventy-five percent (75%) of the member's last annual compensation measured on a daily rate to be determined by the board of trustees. For purposes of determining whether the salary of a member returning to work is seventy-five percent (75%) or less of the member's last annual compensation, all remuneration paid and benefits provided to the member, on an actual dollar or fair market value basis as determined by the retirement system, shall be considered. Members who were retired on or before June 30, 2002, shall be entitled to return to work under the provisions of this section as if they had retired with thirty (30) years of service. Service credit purchased under the provisions of KRS 161.5465 may not be used to meet the thirty (30) year requirement set forth in this subsection.

(2) Any member who is retired with less than thirty (30) years of service after June 30, 2002, may return to work in a full-time or part-time position covered by the Kentucky Teachers' Retirement System and earn up to a maximum of sixty-five

percent (65%) of the member's last annual compensation measured on a daily rate to be determined by the board of trustees. For purposes of determining whether the salary of a member returning to work is sixty-five percent (65%) or less of the member's last annual compensation, all remuneration paid and benefits provided to the member, on an actual dollar or fair market value basis as determined by the retirement system, shall be considered.

(3) Reemployment of a retired member under subsection (1) or (2) of this section in a full-time teaching or nonteaching position in a local school district shall be permitted only if the employer certifies to the Kentucky Teachers' Retirement System that there are no other qualified applicants available to fill the teaching or nonteaching position. The employer may use any source considered reliable including but not limited to data provided by the Education Professional Standards Board and the Department of Education to determine whether other qualified applicants are available to fill the teaching or nonteaching position. The Kentucky Board of Education shall promulgate administrative regulations to establish procedures to determine whether other qualified applicants are available to fill a teaching or nonteaching position and, if not, for filling the position with a retired member who will then be permitted to return to work in that position under subsection (1) or (2) of this section. The administrative regulations shall assure that a retired member shall not be hired in a teaching or nonteaching position by a local school district until the superintendent of the school district assures the Kentucky Teachers' Retirement System that every reasonable effort has been made to recruit other qualified applicants for the position on an annual basis.

(4) Under this section, an employer may employ full-time a number of retired members not to exceed ***three percent (3%)***[~~four percent (4%)~~] of the membership actively employed full-time by that employer. The board of trustees may reduce this ***three percent (3%)***[~~four percent (4%)~~] cap upon recommendation of the retirement system's actuary if a reduction is necessary to maintain the actuarial soundness of the retirement system. The board of trustees may increase the ***three percent (3%)***[~~four percent (4%)~~] cap upon a determination that an increase is warranted to help address a shortage in the number of available teachers and upon the determination of the retirement system's actuary that the proposed cap increase allows the actuarial soundness of the retirement system to be maintained. For purposes of this subsection, "full-time" means the same as defined by KRS 161.220(21). A local school district may exceed the quota established by this subsection by making an annual written request to the Kentucky Department of Education which the department may approve on a year-by-year basis if the statewide quota has not been met. ***A district's written request to exceed its quota shall be submitted no sooner than two (2) weeks after the start of the school year.***

(5) A member returning to work in a full-time or part-time position under subsection (1) or (2) of this section will ***contribute to an***[~~establish a second~~] account with the retirement system that will be administered independently from and with no reciprocal impact with the member's original retirement account. A member returning to work under subsection (1) or (2) of this section shall make contributions to the retirement system at the rate provided under KRS 161.540. The second account shall independently meet the five (5) year vesting requirement as well as all other conditions set forth in KRS 161.600(1) before any retirement allowance is payable from this account. The retirement allowance accruing under this second account shall be calculated pursuant to KRS 161.620(1)(b). This second account shall not entitle the member to a duplication of the benefits offered under KRS 161.655***, Section 19(7) of this Act,*** or 161.675, nor shall this second account provide the benefits offered by KRS 161.520, 161.525, 161.661, or 161.663. A member returning to work under subsection (1) or (2) of this section shall waive his or her medical insurance with the Kentucky Teachers' Retirement System during the period of reemployment and shall receive the medical insurance coverage that is generally provided by the member's active employer to the other members of the retirement system that the active employer employs. If medical insurance coverage is not available from the employer, the Kentucky Teachers' Retirement System may provide coverage for the member. A member returning to work under subsection (1) or (2) of this section shall not be eligible to purchase service credit for any service provided after the member's effective date of retirement but prior to the date that the member returns to work. A member returning to work under subsection (1) or (2) of this section shall not be eligible to purchase service credit that the member would have otherwise been eligible to purchase prior to the member's initial retirement. A member who returns to work under subsection (1) or (2) of this section, or in the event of the death of the member, the member's estate or applicably designated beneficiary, shall be entitled, within ninety (90) days of the posting of the annual report submitted by the employer, to a refund of contributions as permitted and limited by KRS 161.470.

(6) The board of trustees may annually ***on July 1*** adjust the ***current*** daily rate of a member's last annual compensation, for each[~~ year that the member has been retired for a~~] full twelve (12) month period ***that has elapsed subsequent to the member earning his or her last annual compensation***, by the percentage increase in the annual average of the consumer price index for all urban consumers for the calendar year preceding the adjustment as published by the Federal Bureau of Labor Statistics, not to exceed five percent (5%) annually. ***Each annual adjustment shall become part of the member's daily rate base.*** Failure to comply with the salary limitations set forth in subsections (1) and (2) of this section as may be adjusted by this subsection shall result in a reduction of the member's retirement allowance or any other benefit to which the member would otherwise be entitled on a dollar-for-dollar basis for each dollar that the member exceeds these salary limitations.

(7) ***(a)*** A retired member returning to work under subsection (1) or (2) of this section shall have separated from service for a period of at least one (1) year if returning to work for the same employer on a full-time basis, and at least three (3) months if returning to work for a different employer on a full-time basis. A retired member returning to work under subsection (1) or (2) of this section on a part-time basis shall have separated from service for a period of at

least three (3) months before returning to work for any employer.

(b) As an alternative to the separation-from-service requirements in paragraph (a) of this subsection, a retired member who is returning to work for the same employer in a full-time position under subsections (1) and (2) of this section may elect a separation-from-service of not less than two (2) months followed by a forfeiture of the retired member's retirement allowance on a month-to-month basis for each month that the member has separated from service for less than twelve (12) full months. A retired member returning to work for the same employer in a part-time position, or for a different employer in a full-time position, may elect an alternative separation-from-service requirement of at least two (2) months followed by a forfeiture of the member's retirement allowance for one (1) month. During the period that the member forfeits his or her retirement allowance and thereafter, member and employer contributions shall be made to the retirement system as a result of employment in any position subject to membership in the retirement system. The member shall contribute to an account with the retirement system subject to the conditions set forth in subsection (5) of this section. For purposes of measuring the separation-from-service requirements set forth throughout this section, a member's separation-from-service begins on the first day following the last day of paid employment for the member prior to retirement.

(c) Failure to comply with *the*[~~these~~] separation-from-service requirements *in this subsection* voids a member's retirement and the member shall be required to return all the retirement benefits he or she received, with interest, for the period of time that the member returned to work without a sufficient separation from service.

(8) *Effective July 1, 2004, local school districts may employ retired members in full-time or part-time teaching or administrative positions without limitation on the compensation of the retired members that is otherwise required by subsections (1) and (2) of this section. Under provisions of this subsection, a local school district may only employ retired members to fill critical shortage positions for which there are no other qualified applicants as determined by the local superintendent. The number of retired members that a local school district may employ under this subsection shall be no more than two (2) members per local school district or one percent (1%) of the total active members employed by the local school district on a full-time basis as defined under Section 1(21) of this Act, whichever number is greater. Retired members returning to work under this subsection shall be subject to the separation-from-service requirements set forth in subsection (7) of this section. Retired members returning to work under this subsection shall waive their medical insurance coverage with the retirement system during their period of reemployment and receive medical insurance coverage that is offered to other full-time members employed by the local school district. Retired members returning to work under this subsection shall contribute to an account subject to the conditions set forth in subsection (5) of this section. Retired members returning to work under this subsection shall make contributions to the retirement system at the rate provided under KRS 161.540. The employer shall make contributions at the rate provided under Section 12 of this Act. Local school districts shall make annual payments to the retirement system on the compensation paid to the reemployed retirees at the rates determined by the retirement system's actuary that reflect any accrued liability resulting from the reemployment of these members.*

(9) Members who retired on or before June 30, 2002, may, for the fiscal year concluding on June 30, 2007, be reemployed under the one hundred (100) day provisions of this section as they existed on June 30, 2002, except that members returning to work under those provisions shall make contributions to the Kentucky Teachers' Retirement System at the rate provided under KRS 161.540 and members' employers shall make contributions to the Kentucky Teachers' Retirement System at the rates specified under KRS 161.550. Those members returning to work under the one hundred (100) day provisions of this section as they existed on June 30, 2002, shall further waive their medical insurance coverage with the retirement system during the period of reemployment and will instead receive the medical insurance coverage generally provided by their active employer to other members of the retirement system that the active employer employs. If medical insurance coverage is not available from the employer, the Kentucky Teachers' Retirement System may provide coverage for the member. Notwithstanding any other statute to the contrary, retired members returning to work shall under no circumstances be permitted to purchase as service credit service provided under the one hundred (100) day provisions of this section as they existed on June 30, 2002. *Any member who exceeds the one hundred (100) day limitation of this subsection shall be subject to having his or her retirement voided and be required to return all retirement allowances and other benefits paid to the member or on the member's behalf since the effective date of retirement. In lieu of voiding a member's retirement, the system may reduce the member's retirement allowance or any other benefits to which the member would otherwise be entitled on a dollar-for-dollar basis for each dollar of compensation that the member earns in employment exceeding one hundred (100) days.*

(10)[~~(9)~~] The return to work limitations set forth in this section and KRS 161.603 shall apply to retired members who are returning to work in the same position from which they retired, or a position substantially similar to the one from which they retired, or any position listed in KRS 161.220(4) which requires membership in the retirement system. Positions which generally require certification or graduation from a four (4) year college or university as a condition of employment which are created, or changed to remove the position from coverage under KRS 161.220(4) are also subject to the return to work limitations set forth in this section and KRS 161.603. The board of trustees shall determine whether employment in a nonteaching position is subject to this subsection.

(11)[~~(10)~~] The provisions of subsections (1) to *(9)*[~~(8)~~] of this section are not subject to KRS 161.714.

(12)[~~(11)~~] ***Retired members may be employed in a part-time teaching capacity by an agency described***[~~Members retired from an agency listed~~] in KRS 161.220(4)(b) or (n) [~~may be employed in a part-time teaching capacity by one (1) of the universities or community colleges participating in the Teachers' Retirement System~~], not to exceed the equivalent of twelve (12) teaching hours in any one (1) fiscal year. ***Retired*** members[~~ retired from an agency listed in KRS 161.220(4)(b) or (n)~~] may be employed for a period not to exceed the equivalent of one hundred (100) days in any one (1) fiscal year in a part-time administrative or nonteaching capacity by ***an agency described in Section 1(4)(b) or (n) of this Act***[~~one (1) of the universities or community colleges participating in the Teachers' Retirement System~~] in a position that would otherwise be covered by the retirement system.[~~ None of these members shall be subject to~~] The return to work provisions set forth in subsections (1) to ***(9)***[~~(8)~~] of this section ***shall not apply to retired members who return to work solely for an agency described in Section 1(4)(b) or (n) of this Act***. Calculation of the number of days ***and teaching hours*** for part-time teaching, substitute teaching, or part-time employment in a nonteaching capacity under this section shall not exceed the ratio between a school year and the actual months of retirement for the member during that school year. The board of trustees by administrative regulation may establish fractional equivalents of a day of teaching service. ***Any member who exceeds the twelve (12) hour or one hundred (100) day limitations of this subsection shall be subject to having his or her retirement voided and be required to return all retirement allowances and other benefits paid to the member or on the member's behalf since the effective date of retirement. In lieu of voiding a member's retirement, the system may reduce the member's retirement allowance or any other benefit to which the member would otherwise be entitled on a dollar-for-dollar basis for each dollar of compensation that the member earns in employment exceeding twelve (12) hours, one hundred (100) days, or any apportionment of the two (2) combined.***

(13)[~~(12)~~] When a retired member returns to employment in a part-time teaching capacity or in a nonteaching capacity as provided in subsection (11) of this section, the employer shall contribute annually to the retirement system on the compensation paid to the retired member at rates determined by the retirement system actuary that reflect accrued liability for retired members who return to work under subsection (11) of this section.

(14) For retired members who return to work during any one (1) fiscal year in both a position described in Section 1(4)(b) or (n) of this Act and in a position described under another provision under Section 1(4) of this Act, and for retired members who return to work in a position described under Section 1(4)(b) or (n) in both a teaching and an administrative or nonteaching capacity, the board of trustees shall adopt a methodology for a pro rata apportionment of days and hours that the retired member may work in each position.

Section 17. KRS 161.612 is amended to read as follows:

Effective July 1, 2002, any individual occupying a position on a part-time basis that requires certification or graduation from a four (4) year college or university as a condition of employment and any individual providing part-time or substitute teaching services that are the same or similar to those teaching services provided by certified, full-time teachers shall be a member of the Kentucky Teachers' Retirement System, according to the conditions set forth in this section, if the individual is employed by one (1) of the public boards, institutions, or agencies set forth in KRS 161.220***, excluding those public boards, institutions, and agencies described in Section 1(4)(b) and (n) of this Act***. Members providing part-time and substitute services shall participate in the retirement system as follows:

(1) Members providing part-time and substitute services shall accrue service credit as provided under KRS 161.500 and be entitled to a retirement allowance upon meeting the service retirement conditions of KRS 161.600. The board of trustees shall adopt a methodology for accrediting service credit to these members on a pro rata basis. The methodology adopted by the board of trustees may be amended as necessary to ensure its actuarial soundness. The retirement allowance for members providing part-time and substitute services shall be calculated pursuant to KRS 161.620. Members providing part-time and substitute services who meet the service retirement conditions of KRS 161.600 may also be eligible to participate as approved by the board of trustees in the medical insurance program provided by the retirement system under KRS 161.675. Members providing part-time and substitute services shall make contributions to the Kentucky Teachers' Retirement System at the rate provided under KRS 161.540. A member who provides part-time or substitute services, or in the event of the death of the member, the member's estate or applicably designated beneficiary, will be entitled, within ninety (90) days of the posting of the annual report submitted by the member's employer, to a refund of contributions as permitted and limited by KRS 161.470.

(2) The board of trustees shall adopt eligibility conditions under which members providing part-time and substitute services may participate in the benefits provided under KRS 161.520, ***Section 23 of this Act***[~~161.555~~], 161.661, and 161.663. The board of trustees may adopt eligibility conditions under which members providing part-time or substitute services may participate in other benefits offered by the retirement system. All eligibility conditions adopted by the board of trustees pursuant to this subsection may be amended as necessary to ensure their actuarial soundness.

(3) In addition to the pro rata methodology adopted by the board of trustees under subsection (1) of this section, members providing part-time and substitute services shall be subject to all limitations and conditions regarding the accrual, retention, accreditation, and use of service credit that apply to members providing full-time services. In addition to the eligibility conditions set forth by the board of trustees under subsection (2) of this section, members providing part-time and substitute services shall be subject to all limitations and conditions regarding both the eligibility to participate and the extent of participation in any benefit offered under KRS 161.220 to 161.716 that apply to members providing full-time services.

(4) ***Notwithstanding any other provisions of this section to the contrary, instructional assistants who provide teaching services in the local school districts on a full-time basis in positions covered by the County Employees Retirement System who are used as substitute teachers on an emergency basis for five (5) days or less during any one (1) fiscal year shall not be considered members of the Teachers' Retirement System during that period in which they are serving as substitute teachers for five (5) days or less.***

(5) The board of trustees may adopt a pro rata methodology to determine the annual compensation of members providing part-time and substitute services in order to determine benefits provided under KRS 161.661 and 161.663. Members providing part-time and substitute services who had retirement contributions posted to their accounts during the previous fiscal year and who have not had those contributions refunded to them are eligible to vote for the board of trustees.

(6) The board of trustees of the Teachers' Retirement System shall be responsible for final determination of membership eligibility and may direct employers to take whatever action that may be necessary to correct any error relating to membership.

(7)[~~(5)~~] The provisions of this section are not subject to KRS 161.714.

Section 18. KRS 161.614 is amended to read as follows:

A court order awarding additional back salary to or reinstating a member as a result of employment in a position covered by the Kentucky Teachers' Retirement System shall entitle the member to additional salary or service credit, or both, under the following circumstances:

(1) Members shall make contributions to the Kentucky Teachers' Retirement System at the rate set forth in KRS 161.540 and members' employers shall make contributions at the rate set forth in KRS 161.550, with interest accruing on all contributions at the rate of eight percent (8%) per annum from the end of each fiscal year that back salary or the reinstatement was ordered. Contributions, plus interest, shall be made for each year that back salary or reinstatement was ordered. No service or salary credit shall be credited to a member's account unless full contributions are paid to the Kentucky Teachers' Retirement System.

(2) The member may have court-ordered back salary credited to his or her account only to the extent that the member actually received payment for the back salary and only to the extent that the court-ordered back salary is within the salary scale that was available to the member in the covered position for the years that the back salary was awarded. Court-ordered back salary can be credited to the member's account only as permitted under KRS 161.220(9) and (10). ***The member may have court-ordered service credited to his or her account only after the retirement system has received the contributions and interest on the full compensation that would normally be earned in the position that is the subject of the litigation.***

(3) The member's employer ordered to pay back salary or to reinstate the member by a court of competent jurisdiction shall provide the retirement system with a breakdown of the back salary awarded to the member on a year-by-year basis.

(4) The calculations of the contributions and interest required to be paid for court-ordered back salary or reinstatement shall be provided by the retirement system to the member or the member's employer at the member's or employer's request. Requests for these calculations shall be made with at least two (2) weeks of advance notice to the retirement system to provide these calculations. The retirement system will calculate accrued interest as of the last day of the month during which payment of the full contributions are made.

(5) For purposes of this section, a settlement agreement that provides back salary or reinstatement, and is adopted by order or judgment of a court of competent jurisdiction or is referenced in an order dismissing the action as settled shall have the same effect as a court order adjudicating the matter. Orders entered by a government board or agency as a result of litigation conducted on an administrative hearing level shall be considered as court orders for the purposes of this section.

(6) Under no circumstances shall a member be entitled to service credit as a result of court-ordered reinstatement that is in violation of the provisions of KRS ***161.500***[~~161.550~~].

Section 19. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:

   (a) For retirements effective July 1, 1998, and thereafter, except as otherwise provided by this section, the annual allowance for each year of service shall be two percent (2%) of the final average salary for service performed prior to July 1, 1983, and two and one-half percent (2.5%) of the final average salary for service performed after July 1, 1983, for all members not employed by a state college or university. The annual retirement allowance for each year of service performed by members of the Teachers' Retirement System who are members under the provisions of KRS 161.220(4)(b) or (n) shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section; and

   (b) For individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2002, except those persons who become members under KRS 161.220(4)(b) or (n), and who upon retirement have earned less than ten (10) full years of service credit, the retirement allowance shall be two percent (2%) of the member's final average salary for each year of service. For individuals who become members of the Kentucky Teachers' Retirement System on or after July 1, 2002, except those persons who become members under KRS 161.220(4)(b) or (n), and who upon retirement have earned at least ten (10) full years of service credit, the annual allowance for each year of service shall be two and one-half percent (2.5%) of the member's final average salary.

(c) The board of trustees may approve for members who initially retire on or after July 1, 2004, except those persons who are members under KRS 161.220(4)(b) or (n), a retirement allowance of three percent (3%) of the member's final average salary for each year of service credit earned in excess of thirty (30) years. This three percent (3%) factor shall be in lieu of the two and one-half percent (2.5%) factor provided for in paragraph (b) of this subsection for every year or fraction of a year of service in excess of thirty (30) years. Upon approval of this three percent (3%) retirement factor, the board of trustees may establish conditions of eligibility regarding the type of service credit that will qualify for meeting the requirements of this subsection. This subsection is optional with the board of trustees and shall not be subject to KRS 161.714.

(d) The retirement allowance of a member at retirement***, as measured on a life annuity,*** shall not exceed the member's last ***yearly salary***[~~annual compensation~~] or the member's final average salary, whichever is the greater amount. ***For purposes of this section, "yearly salary" means the compensation earned by a member during the most recent period of contributing service, either consecutive or nonconsecutive, preceding the member's effective retirement date and shall be subject to the provisions of Section 1(9) and (10) of this Act.***

(2) Effective July 1, 2002, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option shall be increased in the amount of one and one-half percent (1.5%), provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase.

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than four hundred dollars ($400) effective July 1, 2002, and not less than four hundred forty dollars ($440) effective July 1, 2003, multiplied by the service credit years of the member. These minimums shall apply to the retired members receiving annuity payments and to those members retiring on or subsequent to the effective dates listed in this subsection.

(4) The minimum retirement allowance provided in this section shall apply in the case of members retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the member and his beneficiary or beneficiaries as provided in the duly-adopted option tables at the time of the member's retirement.

(5) Effective July 1, ***2004***[~~2002~~], the monthly allowance of each retired member and each recipient of a retirement option of the retired member may be increased in an amount not to exceed ***eight-tenths of one percent (0.8%)***[~~one and four-tenths percent (1.4%)~~] of the monthly allowance in effect the previous month, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase. The level of increase provided for in this subsection shall be determined by the funding provided in the 2002-2004 biennium budget appropriation.

(6) Effective July 1, ***2005***[~~2003~~], the monthly allowance of each retired member and each recipient of a retirement option of the retired member may be increased in an amount not to exceed ***seven-tenths of one percent (0.7%)***[~~one and one-half percent (1.5%)~~] of the monthly allowance in effect the previous month, provided the retired member had been retired for at least the full twelve (12) months immediately preceding the date that the increase is effective. In the event that the retired member had been retired for less than the full twelve (12) months immediately preceding the date that the increase is effective, then the increase shall be reduced on a pro rata basis by each month that the retired member had not been retired for the full twelve (12) months immediately preceding the effective date of the increase. The level of increase provided for in this subsection shall be determined by the funding provided in the 2002-2004 biennium budget appropriation.

(7) Effective July 1, 1990, monthly payments of two hundred dollars ($200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental or physical condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of the child or until the time the mental or physical condition creating the dependency no longer exists or the child marries. Benefits under this subsection shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one (1) year prior to the death of the member. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.

(8) Members of the Teachers' Retirement System shall be subject to the annuity income limitations imposed by Section 415 of the Internal Revenue Service Code.

(9) Compensation in excess of the limitations imposed by Section 401(a)(17) of the Internal Revenue Code shall not be used in determining a member's retirement annuity. The limitation on compensation for eligible members shall not be less than the amount which was allowed to be taken into account by the retirement system in effect on July 1, 1993. For this purpose, an eligible member is an individual who was a member of the retirement system before the first plan year

beginning after December 31, 1995.

Section 20. KRS 161.630 is amended to read as follows:

(1) A member, upon retirement, shall receive a retirement allowance in the form of a life annuity, with refundable balance, as provided in KRS 161.620, unless an election is made before the effective date of retirement to receive actuarially equivalent benefits under options which the board of trustees approves. No option shall provide for a benefit with an actuarial value at the age of retirement greater than that provided in KRS 161.620. This section does not apply to disability allowances as provided in KRS 161.661(1).

(2) The ***retirement***[~~benefit~~] option chosen by a retiree at the time of service retirement shall remain in force unless the retiree elects to make a change under the following conditions:

(a) A divorce, annulment, or marriage dissolution following retirement shall, at the election of the retiree, cancel any optional plan selected at retirement ***that provides***[~~to provide~~] continuing benefits to ***a spousal***[~~the~~] beneficiary and return the retiree to a single lifetime benefit equivalent as determined by the board; or

(b) Following marriage or remarriage, or the death[~~ of a spouse, or the death~~] of ***the***[~~any other~~] designated beneficiary, a retiree may elect a new optional plan of payment based on the actuarial equivalent of a single lifetime benefit at the time of the election, as determined by the board. The plan shall become effective the first of the month following receipt of an application on a form approved by the board.

(3) Except as otherwise provided in this section, a beneficiary designation shall not be changed after the effective date of retirement except for retirees who elect the[~~ straight~~] life annuity with refundable balance option or the predetermined years certain and life thereafter option.

(4) A member who experiences a qualifying event under subsection (2) of this section and who elects a new optional plan of payment shall make that election within sixty (60) days of the qualifying event.

Section 21. KRS 161.640 is amended to read as follows:

(1) Retirement annuities shall be payable monthly. The first payment to an annuitant shall be made at the payment date at the end of one (1) full payment period after his retirement and shall consist of one (1) regular monthly payment. Retirement for a member receiving one (1) full year of service credit during a fiscal year shall be no earlier than July 1 next following the end of such fiscal year. ***Notwithstanding any other statutory provisions to the contrary, members filling positions that customarily require twelve (12) months of service during a fiscal year cannot retire prior to July 1 without a corresponding pro rata reduction in salary and service credit. The board of trustees may determine which positions customarily require twelve (12) months of service during a fiscal year.***

(2) The board of trustees may enter into agreements with retired members for payroll deductions when it is deemed in the best interest of the retired members and the retirement system.

(3) All new retirees, on or after July 1, 1998, shall receive their monthly annuity checks by electronic fund transfer. All annuity and survivor monthly allowance payments shall be made by electronic fund transfer by December 31, 1998.

Section 22. KRS 161.650 is amended to read as follows:

(1) In the case of death of a member who has retired by reason of service or disability, any portion of the member's accumulated contributions, including member contributions to the state accumulation fund and regular interest to the date of retirement, that has not, and will not be paid as an allowance or benefit shall be paid to the member's beneficiary in such manner as the board of trustees elects.

(2) The member may designate a primary beneficiary or two (2) or more co-beneficiaries to receive any remaining accumulated member contributions payable under this section. A contingent beneficiary may be designated in addition to the primary beneficiary or the co-beneficiaries. The member may designate two (2) or more contingent beneficiaries. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of any remaining accumulated member contributions. Any beneficiary designation made by the member shall remain in effect until changed by the member on forms prescribed by the retirement system, except in the event of subsequent divorce. A final divorce decree shall terminate the beneficiary status of an ex-spouse, unless subsequent to divorce the member redesignates the former spouse as a beneficiary. A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust. In the event that the member fails to designate a beneficiary, any remaining accumulated member contributions shall be payable to the member's estate.

Section 23. KRS 161.655 is amended to read as follows:

(1) Effective July 1, 2000, the Teachers' Retirement System shall***:***

(a) Provide a life insurance benefit in a minimum amount of five thousand dollars ($5,000) for its members who are retired for service or disability. This life insurance benefit shall be payable upon the death of a member retired for service or disability to the member's estate or to a party designated by the member on a form prescribed by the retirement system***; and***

(b) [~~. The Teachers' Retirement System shall~~]Provide a life insurance benefit in a minimum amount of two thousand dollars ($2,000) for its active contributing members. This life insurance benefit shall be payable upon the death of an active contributing member to the member's estate or to a party designated by the member on a form prescribed by the retirement system.

(2) The member may name one (1) primary and one (1) contingent beneficiary for receipt of the life insurance benefit. To the extent permitted by the Internal Revenue Code, a trust may be designated as beneficiary for receipt of the life insurance benefit. Any beneficiary designation made by the member shall remain in effect until changed by the member on forms prescribed by the retirement system, except in the event of subsequent divorce. A final divorce decree shall terminate the beneficiary status of an ex-spouse, unless subsequent to divorce the member redesignates the former spouse as a beneficiary. A final divorce decree shall not terminate the designation of a trust as beneficiary regardless of who is designated as beneficiary of the trust.

(3) Application for payment of life insurance proceeds shall be made to the Teachers' Retirement System together with acceptable evidence of death and eligibility. The reciprocal provisions of KRS 61.680(2)(a) shall not apply to the coverage and payment of proceeds by the life insurance benefit under this section.

(4)[~~(2)~~] Suit or civil action shall not be required for the collection of the proceeds of the life insurance benefit provided for by this section, but nothing in this section shall prevent the maintenance of suit or civil action against the beneficiary or legal representative receiving the proceeds of the life insurance benefit.

Section 24. KRS 161.680 is amended to read as follows:

If any change or error in a record results in any *individual*[~~employee or beneficiary~~] receiving from the retirement system more or less than *the individual*[~~he~~] was entitled to receive, the board of trustees shall, when the error is discovered, correct the error, and as far as practicable adjust the payments so that the actuarial equivalent of the benefit to which *the individual*[~~he~~] was entitled shall be paid.

Section 25. KRS 161.568 is amended to read as follows:

(1) Eligibility to participate in the optional retirement plan shall be determined by the board of regents of each of the state public postsecondary education institutions identified in KRS 161.220(4)(b). The employees of these institutions of higher education who are initially employed on or after the implementation date of the optional retirement plan may make an[~~irrevocable~~] election to participate in the optional retirement plan within thirty (30) days after their employment date. *This election shall be irrevocable except as otherwise provided in this subsection.* No member of the Kentucky Teachers' Retirement System who terminates employment and is subsequently reemployed by the same or another public postsecondary education institution which participates in the Kentucky Teachers' Retirement System may be eligible to elect to participate in the optional retirement plan unless the date of reemployment is at least six (6) months after the date of termination. *Any person who previously elected to participate in the optional retirement plan may irrevocably elect one (1) time during his or her lifetime to change his or her election and to prospectively participate in the Kentucky Teachers' Retirement System. This election to change from the optional retirement plan to Kentucky Teachers' Retirement System shall be effective beginning on the first day of the first month immediately following the date that written application for the election is received in the retirement system's office on forms prescribed by the system.* These elections shall be made in writing and filed with the appropriate officer of the employer institution.

(2) Elections of eligible employees hired on or after the implementation date of the optional retirement plan at their employer institution shall be effective on the date of their employment. If an eligible employee hired subsequent to the implementation date at the employer institution fails to make the election provided for in this section, he shall become a member of the regular retirement plan of the Kentucky Teachers' Retirement System.

Section 26. KRS 161.569 is amended to read as follows:

(1) Any person electing to participate in the optional retirement plan shall be ineligible for membership in the regular retirement plan of the Kentucky Teachers' Retirement System for as long as he is employed in a position for which the optional retirement plan is available*, except as provided in subsection (1) of Section 25 of this Act*.

(2) Any person electing to participate in the optional retirement plan shall acknowledge in writing that the benefits payable to participants are not the obligation of the Commonwealth of Kentucky or the Kentucky Teachers' Retirement System, and that these benefits and other rights of the optional retirement plan are the liability and responsibility solely of the designated companies to which contributions have been made.

(3) Benefits shall be payable to optional retirement plan participants or their beneficiaries by the designated companies in accordance with the contracts issued by each company and the retirement plan provisions adopted by each public institution.

(4) Annuity contracts issued under the optional retirement plan and all rights of a participant in the optional retirement plan shall be exempt from any state, local, or municipal tax; assessment for the insolvency of any life, health, or casualty insurance company; any levy or sale, garnishment, or attachment; or any process whatsoever, and shall be unassignable except as otherwise specifically provided by the contracts offered under the optional retirement plan adopted by the respective public institutions of higher education. Except contracts issued and rights accrued in the optional retirement plan on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(5) (a) Each institution shall contribute on behalf of each participant in its optional retirement program the following:

1. To the designated company or companies, an amount equal to the amount that would have been payable to

the Kentucky Teachers' Retirement System if the member had elected to participate in that plan instead of the optional retirement plan, less the amount contributed to the Kentucky Teachers' Retirement System pursuant to subparagraph 2. of this paragraph; and

2. To the Kentucky Teachers' Retirement System, an amount equal to the contribution which would have been payable to the Kentucky Teachers' Retirement System on account of the unfunded liability if the member had elected to participate in that plan instead of the optional retirement plan. The rate of contribution shall be determined annually by the Kentucky Teachers' Retirement System actuary. This payment shall continue to be made on behalf of all participants in the optional retirement plan until July 1, 2018, the current amortization period of the Kentucky Teachers' Retirement System.

(b) Each participant shall contribute an amount equal to the present member contribution to the Kentucky Teachers' Retirement System. Employee contributions to the optional retirement plan shall be made by salary reduction under either Section 403(b) or 414(h) of the Internal Revenue Code of 1986.

Section 27. The provisions of subsection (8) of Section 16 of this Act supercede the provisions relating to critical shortage positions set forth in 2003 Kentucky Acts ch. 156, sec.1.

Section 28. Whereas retirement annuity adjustments are implemented at the beginning of the fiscal year, an emergency is declared to exist, and this Act takes effect July 1, 2004.

The Committee on Banking and Insurance reported **HB 324**, with Committee Substitute attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 324, AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 287.730 is amended to read as follows:

(1) For each billing cycle at the end of which there is an outstanding balance in the debtor's account or with respect to which a charge permitted by KRS 287.710 to 287.770 is imposed, the bank shall render a statement to the debtor containing, to the extent applicable, such information as may be required to be included therein pursuant to Title I of the Federal Consumer Credit Protection Act of 1968 (Pub. L. 90-321) and any amendments, additions or replacements thereto in effect after June 16, 1972, and a legend to the effect that the debtor may at any time pay the aggregate balance owing by him or any part thereof.

(2) In the event of an extension of credit by a bank hereunder that is affected by the use of a credit card for the purchase of goods or services and that results in payment by the bank directly to a third party, the finance charge as authorized by KRS 287.740 shall not be imposed upon the debtor on such extension if payment in full of the entire outstanding unpaid balances owing on the debtor's account is received at the place designated by the bank by the date of the statement for the next billing cycle.

(3) Imposition of a finance charge by a bank upon the debtor in violation of subsection (2) of this section, with intent to defraud the debtor, shall be deemed to be an unfair, false, misleading or deceptive practice in violation of KRS 367.170, and shall be subject to the provisions of the Consumer Protection Act, KRS 367.110 to 367.300, and the penalties provided in KRS 367.990.

SECTION 2. A NEW SECTION OF KRS 367.110 TO 367.300 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context otherwise requires:

(a) "Cardholder" means the person or organization named on the face of a credit card to whom or for whose benefit the credit card is issued by an issuer;

(b) "Credit card" means any instrument or device, whether known as a credit card, credit plate, credit number, or by any other name, issued by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit;

(c) "Issuer" means a business organization or financial institution which issues a credit card, or its duly authorized agent.

(2) Imposition of a finance charge by a bank, which is an issuer, upon a cardholder in violation of Section 1 of this Act, with intent to defraud the cardholder, shall be deemed to be an unfair, false, misleading, or deceptive act or practice in the conduct of trade or commerce, in violation of KRS 367.170.

(3) Imposition of a finance charge by any issuer other than a bank, with intent to defraud the cardholder, after the cardholder has made payment in full of the entire outstanding unpaid balance owing on the cardholder's account and payment is received at the place designated by the issuer by the date of the statement for the next billing cycle, shall be deemed to be an unfair, false, misleading or deceptive act or practice in the conduct of trade or commerce in violation of KRS 367.170.

(4) All of the remedies, powers, and duties delegated to the Attorney General by KRS 367.110 to 367.300, and the penalties provided in KRS 367.990, pertaining to acts and practices declared unlawful by KRS 367.170, shall be applied to acts

and practices declared unlawful by this section.

The Committee Substitute to **HB 324** is as follows:

HB 324, AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 367.110 TO 367.300 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context otherwise requires:

(a) "Cardholder" means the person or organization named on the face of a credit card to whom or for whose benefit the credit card is issued by an issuer;

(b) "Credit card" means any instrument or device, whether known as a credit card, credit plate, credit number, or by any other name, issued by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit;

(c) "Issuer" means a business organization or financial institution which issues a credit card, or its duly authorized agent.

(2) Imposition of a finance charge by a bank, which is an issuer, upon a cardholder in violation of Section 1 of this Act, with intent to defraud the cardholder, shall be deemed to be an unfair, false, misleading, or deceptive act or practice in the conduct of trade or commerce, in violation of KRS 367.170.

(3) Imposition of a finance charge by any issuer other than a bank, with intent to defraud the cardholder, after the cardholder has made payment in full of the entire outstanding unpaid balance owing on the cardholder's account and payment is received at the place designated by the issuer by the date of the statement for the next billing cycle, shall be deemed to be an unfair, false, misleading or deceptive act or practice in the conduct of trade or commerce in violation of KRS 367.170.

(4) All of the remedies, powers, and duties delegated to the Attorney General by KRS 367.110 to 367.300, and the penalties provided in KRS 367.990, pertaining to acts and practices declared unlawful by KRS 367.170, shall be applied to acts and practices declared unlawful by this section.

The Committee on Licensing and Occupations reported **HB 362**, with Committee Substitute attached thereto, and **HB 420**, with Committee Substitute attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 362, AN ACT relating to containers for wine and distilled spirits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 244.260 is amended to read as follows:

No wholesaler shall purchase, import, keep upon the licensed premises, or sell any distilled spirits or wine in any container except in the original sealed package containing quantities of not less than *fifty (50)*[~~two hundred (200)~~] milliliters each of distilled spirits or one hundred (100) milliliters of wine, and not exceeding 1.75 liters of distilled spirits or two hundred twenty (220) liters of wine[~~, and fifty (50) milliliters of distilled spirits, as received from the distiller, rectifier, vintner, or wholesaler, as the case may be~~]. The containers shall at all times have affixed to them all labels as may be required by the administrative regulations of the board[~~, together with all necessary federal revenue and state excise tax stamps~~].

Section 2. KRS 244.340 is amended to read as follows:

(1) No retailer of distilled spirits or wine by the package shall purchase, keep upon the licensed premises, or sell any distilled spirits or wine by the package in any container except in the original sealed package containing quantities of not less than *fifty (50)*[~~two hundred (200)~~] milliliters of distilled spirits or one hundred (100) milliliters of wine and not exceeding one and seventy-five hundredths (1.75) liters of distilled spirits or two hundred twenty (220) liters of wine.[~~ Containers of fifty (50) milliliters for distilled spirits shall be permitted.~~]

(2) Each container shall have affixed to it all labels as may be required by the administrative regulations of the board[~~, together with all required federal revenue tax stamps~~].

(3) No container shall be opened nor its contents consumed on the licensed premises unless the licensee also holds a retail drink license.

The Committee Substitute to **HB 362** is as follows:

HB 362, AN ACT relating to containers for wine and distilled spirits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 244.260 is amended to read as follows:

No wholesaler shall purchase, import, keep upon the licensed premises, or sell any distilled spirits or wine in any container except in the original sealed package containing quantities of not less than ***fifty (50)***[~~two hundred (200)~~] milliliters each of distilled spirits or one hundred (100) milliliters of wine, and not exceeding 1.75 liters of distilled spirits or two hundred twenty (220) liters of wine[~~, and fifty (50) milliliters of distilled spirits, as received from the distiller, rectifier, vintner, or wholesaler, as the case may be~~]. The containers shall at all times have affixed to them all labels as may be required by the administrative regulations of the board[~~, together with all necessary federal revenue and state excise tax stamps~~].

Section 2. KRS 244.340 is amended to read as follows:

(1) No retailer of distilled spirits or wine by the package shall purchase, keep upon the licensed premises, or sell any distilled spirits or wine by the package in any container except in the original sealed package containing quantities of not less than ***fifty (50)***[~~two hundred (200)~~] milliliters of distilled spirits or one hundred (100) milliliters of wine and not exceeding one and seventy-five hundredths (1.75) liters of distilled spirits or two hundred twenty (220) liters of wine.[~~ Containers of fifty (50) milliliters for distilled spirits shall be permitted.~~]

(2) Each container shall have affixed to it all labels as may be required by the administrative regulations of the board[~~, together with all required federal revenue tax stamps~~].

(3) No container shall be opened nor its contents consumed on the licensed premises unless the licensee also holds a retail drink license.

Section 3. KRS 244.230 is amended to read as follows:

(1) The regulations of the Bureau of Internal Revenue in the United States Department of the Treasury, as they are now or may be hereafter, with respect to the labeling ***and standards of fill*** of distilled spirits and wine, are adopted and any distilled spirits and wine shall be deemed to be properly labeled under all the laws of this state, if the labels ***and standards of fill*** conform to those regulations.

(2) Distilled spirits not produced or bottled in the United States shall be labeled in the same manner that distilled spirits produced or bottled in this state are required to be labeled.

(3) Subsections (1) and (2) shall not prevent the department from promulgating regulations on this subject that are in addition to but not contrary to the regulations of the Bureau of Internal Revenue in the United States Department of the Treasury.

HB 420, AN ACT relating to public accountancy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 325.280 is amended to read as follows:

(1) The board may issue a license to practice by reciprocity, if the applicant submits an application for a license to practice public accountancy, upon forms approved by the board, that includes all required fees, in the amounts as determined by administrative regulation promulgated by the board, and meets the following requirements:

  (a) The applicant received a grade on the Uniform Certified Public Accountants Examination in another state that was equivalent to a passing grade at the time in this Commonwealth;

  (b) The applicant holds a valid active license, and is in good standing as a certified public accountant, issued under the laws of any other state; and

  (c) 1. The applicant meets all current experience requirements in this Commonwealth at the time application is made; or

    2. Within the ten (10) years immediately preceding the application, had four (4) years of experience in the practice of public accountancy acceptable to the board upon which the license was based.

(2) The board may issue a license to practice public accountancy without examination to an applicant who holds a valid license to engage in the practice of public accountancy in good standing from a foreign country if:

  (a) The applicant's foreign country makes similar provisions to allow a person who holds a valid license to practice public accountancy issued by this Commonwealth to obtain that foreign country's comparable designation;

  (b) The authority of the foreign country that issued the designation regulates the practice of public accountancy, including the issuance of reports upon financial statements;

  (c) The foreign designation was granted upon education and examination requirements which were established by the foreign authority or law and were substantially equivalent to those in effect in this Commonwealth at the time the foreign designation was granted;

  (d) The applicant satisfies the applicable experience requirement contained in paragraph (c) of subsection (1) of this section;

  (e) The applicant has successfully passed a uniform qualifying examination on United States national standards[~~ and an examination on the law and administrative regulations of the board~~]; and

  (f) The applicant submits an application for a license to practice public accountancy, upon forms approved by the board, that includes all required fees, in the amounts as determined by administrative regulation promulgated by the board.

(3) (a) The board may ***grant a privilege***[~~issue a license~~] to practice ***public accountancy*** to an applicant whose principal place of business is not in this state and who holds ***an active and***[~~a~~] valid license ***in good standing*** to practice as a certified public accountant in another state deemed by the board to have substantially equivalent licensing standards. The board shall determine the procedure for reviewing and determining the substantial equivalency of any state.

(b) ***A person applying for the privilege established in paragraph (a) of this section,***[~~The applicant~~] shall ***satisfy***[~~apply in accordance with administrative regulations promulgated by the board and meet~~] the following requirements:

1. Submit ***to the board, notification to practice on a form adopted by the board***[~~an application~~] and pay a fee not to exceed ***one***[~~two~~] hundred dollars ***($100). The form shall be submitted prior to the applicant engaging in a regulated activity in this state or no later than thirty (30) calendar days thereafter***[~~($200)~~];
2. Agree to submit to the personal and subject matter jurisdiction and disciplinary authority of the board;
3. Comply with the laws of this chapter and the board's administrative regulations;
4. Agree to the appointment of the ***state*** board that issued the license as the agent upon whom process may be served in any action or proceeding by the board against the applicant;
5. Agree to immediately cease offering services if any of the information filed is false;
6. Agree to ***notify the board immediately if***[~~renew~~] the license[~~ by affirming continuing licensure~~] in the ***applicant's*** home jurisdiction ***becomes inactive, lapses, or is subjected to any disciplinary action***;[~~ and~~]
7. ***Agree that, notwithstanding the notice and hearing requirements of KRS 325.340, the privilege shall be automatically suspended or revoked if the home jurisdiction takes identical action on the license upon which the privilege is granted; and***
8. ***Agree***[~~Recognize~~] that if the applicant moves his or her principal place of business to Kentucky***,*** he or she shall notify the board ***prior to the move*** and ***immediately apply for a license under subsection (1) or (2) of this section***[~~revise the license application to reflect this information~~].

(c) A privilege issued under this subsection shall be effective for the lesser of:

1. A period of two (2) years; or

2. Until the license upon which the privilege was granted expires.

The privilege may be renewed if the applicant meets the requirements of this subsection and administrative regulations promulgated pursuant to this subsection.

(d) The board may take disciplinary action against a licensee for an act committed in another state if the act at the time of its commission is a violation of this chapter and administrative regulations promulgated pursuant to this chapter.

Section 2. KRS 325.431 is amended to read as follows:

(1) The proceedings, records, and workpapers of the review committee shall be privileged and not subject to discovery, subpoena, or other means of legal process, or introduction into evidence in any civil action, arbitration, administrative proceeding, or state accountancy board proceeding. No member of the review committee or person involved in the quality review process shall testify in any civil action, arbitration, administrative proceeding, or state accountancy board proceeding as to any matter produced, presented, disclosed, or discussed during or in connection with the quality review process, or as to any finding, recommendation, evaluation, opinion, or other action of the committee.

(2) Information, documents, or records that are publicly available shall not be immune from discovery or use in any civil action, arbitration, administrative proceeding, or state accountancy board proceeding merely because they were presented or considered in connection with the quality review process.

(3) ***The privilege created in subsection (1) of*** this section shall not apply to***:***

(a) Materials prepared in connection with a particular engagement merely because they happen to subsequently be presented or considered as part of the quality of review process.

(b) [~~This section shall not apply to ~~]Disputes between review committees and persons or firms subject to a quality review arising from the performance of the quality review.

(c) Correspondence and records of the peer review program obtained by the board from a licensee seeking renewal or an individual or firm seeking to become licensed.

(d) A statement obtained by the board from a review committee to determine if a licensee seeking renewal or an individual or firm seeking to become licensed is enrolled in or is not enrolled in a peer review program.

The Committee Substitute to **HB 420** is as follows:

HB 420, AN ACT relating to public accountancy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 325.280 is amended to read as follows:

(1) The board may issue a license to practice by reciprocity, if the applicant submits an application for a license to practice ***any regulated activity***[~~public accountancy~~], upon forms approved by the board, that includes all required fees, in the amounts as determined by administrative regulation promulgated by the board, and meets the following requirements:

(a) The applicant received a grade on the Uniform Certified Public Accountants Examination in another state that was equivalent to a passing grade at the time in this Commonwealth;

(b) The applicant holds a valid active license, and is in good standing as a certified public accountant, issued under the laws of any other state; and

(c) 1. The applicant meets all current experience requirements in this Commonwealth at the time application is made; or

2. Within the ten (10) years immediately preceding the application, had four (4) years of experience in the practice of ***the regulated activities***[~~public accountancy~~] acceptable to the board upon which the license was based.

(2) The board may issue a license to practice ***the regulated activities***[~~public accountancy~~] without examination to an applicant who holds a valid license to engage in the practice of ***the regulated activities***[~~public accountancy~~] in good standing from a foreign country if:

(a) The applicant's foreign country makes similar provisions to allow a person who holds a valid license to practice ***the regulated activities***[~~public accountancy~~] issued by this Commonwealth to obtain that foreign country's comparable designation;

(b) The authority of the foreign country that issued the designation regulates the practice of ***the regulated activities***[~~public accountancy~~], including the issuance of reports upon financial statements;

(c) The foreign designation was granted upon education and examination requirements which were established by the foreign authority or law and were substantially equivalent to those in effect in this Commonwealth at the time the foreign designation was granted;

(d) The applicant satisfies the applicable experience requirement contained in paragraph (c) of subsection (1) of this section;

(e) The applicant has successfully passed a uniform qualifying examination on United States national standards ***approved by the board***[~~ and an examination on the law and administrative regulations of the board~~]; and

(f) The applicant submits an application for a license to practice ***the regulated activities***[~~public accountancy~~], upon forms approved by the board, that includes all required fees, in the amounts as determined by administrative regulation promulgated by the board.

(3) (a) The board may ***grant a privilege***[~~issue a license~~] to practice ***the regulated activities*** to ***a natural person***[~~an applicant~~] whose principal place of business is not in this state and who holds ***an active and***[~~a~~] valid license ***in good standing*** to practice as a certified public accountant in ***the***[~~another~~] state ***where his or her principal place of business is located and is*** deemed by the board to have substantially equivalent licensing standards. The board shall determine the procedure for reviewing and determining the substantial equivalency of any state.

(b) ***A person applying for the privilege established in paragraph (a) of this section,***[~~The applicant~~] shall ***satisfy***[~~apply in accordance with administrative regulations promulgated by the board and meet~~] the following requirements:

1. Submit ***to the board, notification to practice on a form adopted by the board***[~~an application~~] and pay a fee not to exceed ***one***[~~two~~] hundred dollars ***($100). The form shall be submitted prior to the applicant engaging in a regulated activity in this state or no later than thirty (30) calendar days thereafter***[~~($200)~~];
2. Agree to submit to the personal and subject matter jurisdiction and disciplinary authority of the board;
3. Comply with the laws of this chapter and the board's administrative regulations;
4. Agree to the appointment of the ***state*** board that issued the license as the agent upon whom process may be served in any action or proceeding by the board against the applicant;
5. Agree to immediately cease offering services if any of the information filed is false;
6. Agree to ***notify the board immediately if***[~~renew~~] the license[~~ by affirming continuing licensure~~] in the ***applicant's*** home jurisdiction ***becomes inactive, lapses, or is subjected to any disciplinary action***;[~~ and~~]
7. ***Agree that, notwithstanding the notice and hearing requirements of KRS 325.340, the privilege shall be automatically suspended or revoked if the home jurisdiction takes identical action on the license upon which the privilege is granted; and***
8. ***Agree***[~~Recognize~~] that if the applicant moves his or her principal place of business to Kentucky***,*** he or she shall notify the board ***prior to the move*** and ***immediately apply for a license under subsection (1) or (2) of this section***[~~revise the license application to reflect this information~~].

(c) A privilege issued under this subsection shall automatically expire when one (1) of the following occurs:

1. The privilege is not renewed prior to July 1 of the second year following the date the privilege was last issued; or

2. The license upon which the privilege was granted expires.

The privilege may be renewed if the applicant meets the requirements of this subsection and administrative regulations promulgated pursuant to this subsection.

(d) The board may take disciplinary action against a licensee for an act committed in another state if the act at the time of its commission is a violation of this chapter and administrative regulations promulgated pursuant to this chapter.

Section 2. KRS 325.431 is amended to read as follows:

(1) The proceedings, records, and workpapers of the review committee shall be privileged and not subject to discovery, subpoena, or other means of legal process, or introduction into evidence in any civil action, arbitration, administrative proceeding, or state accountancy board proceeding. No member of the review committee or person involved in the quality review process shall testify in any civil action, arbitration, administrative proceeding, or state accountancy board proceeding as to any matter produced, presented, disclosed, or discussed during or in connection with the quality review process, or as to any finding, recommendation, evaluation, opinion, or other action of the committee.

(2) Information, documents, or records that are publicly available shall not be immune from discovery or use in any civil action, arbitration, administrative proceeding, or state accountancy board proceeding merely because they were presented or considered in connection with the quality review process.

(3) ***The privilege created in subsection (1) of*** this section shall not apply to***:***

(a) Materials prepared in connection with a particular engagement merely because they happen to subsequently be presented or considered as part of the quality of review process.

(b) [~~This section shall not apply to~~]Disputes between review committees and persons or firms subject to a quality review arising from the performance of the quality review.

(c) Correspondence and reports of the peer review program obtained by the board from a licensee seeking renewal or an individual or firm seeking to become licensed.

(d) A statement obtained by the board from a review committee to determine if a licensee seeking renewal or an individual or firm seeking to become licensed is enrolled in or is not enrolled in a peer review program.

The Committee on Judiciary reported **HB 112**, with Committee Substitute attached thereto, **HB 161**, with Committee Substitute attached thereto, **HB 264**, with Committee Substitute attached thereto, **HB 314, HB 371, HB 410**, and **HB 445** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 112, AN ACT relating to business names.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 365.015 is amended to read as follows:

(1) The real name of an individual shall include his or her surname at birth, or his or her name as changed by a court of competent jurisdiction, or the surname of a married woman; the real name of a domestic general partnership is that name which includes the real name of each of the partners; the real name of a[~~ registered~~] limited liability partnership is the name stated in its statement of registered limited liability partnership filed under KRS ***362.555***[~~Chapter 362~~]; the real name of a domestic limited partnership is that name stated in its certificate of limited partnership[~~ filed pursuant to KRS Chapter 362~~]; the real name of a domestic business trust is the name set forth in the declaration of trust; the real name of a domestic corporation is the name set forth in its articles of incorporation; and the real name of a domestic limited liability company is the name set forth in its articles of organization. The real name of a foreign general partnership, including a foreign[~~ registered~~] limited liability partnership, or limited partnership ***or***[~~and~~] of a foreign business trust is the name recognized by the laws of the foreign state under which it is formed as being the real name or the fictitious name adopted for use in this state;[~~ the real name of a foreign registered limited liability partnership is the name stated in its statement of foreign registered limited liability partnership filed under KRS Chapter 362;~~] the real name of a foreign corporation is the name set forth in its articles of incorporation or the fictitious name adopted for use in this state under KRS 271B.15-060; and the real name of a foreign limited liability company is the name set forth in its articles of organization or the fictitious name adopted for use in this state under KRS 275.410.

(2) (a) No individual, general partnership, including a[~~ registered~~] limited liability partnership, limited partnership, business trust, corporation, or limited liability company shall conduct or transact business in this state under an assumed name or any style other than his or its real name, as defined in subsection (1) of this section, unless such individual, partnership, limited partnership, business trust, corporation, or limited liability company has filed a certificate of assumed name;

(b) The certificate shall state the assumed name under which the business will be conducted or transacted, the real name of the individual, partnership, limited partnership, business trust, corporation, or limited liability company and his or its address, including street and number, if any;

(c) A separate certificate shall be filed for each assumed name;

(d) No certificate to be filed with the Secretary of State shall set forth an assumed name which is not distinguishable upon the records of the Secretary of State from any other name previously filed and on record with the Secretary of State;

(e) The certificate shall be executed for an individual, by the individual; for a general partnership, including a registered limited liability partnership, by at least one (1) partner authorized to do so by the partners; for a limited partnership, by a general partner; for a business trust, by ***a trustee***~~[the trustees]~~; for a corporation, by any person authorized to act for the corporation; and for a limited liability company, by a member or manager authorized to act for the limited liability company.

(3) ***Each***~~[The]~~ certificate of assumed name for an individual shall be filed with the county clerk where the person ***maintains his or her principal place of business***~~[is deemed a resident under the provisions of KRS 186A.190(2)(a) to (j)]~~. ***Each***~~[The]~~ certificate of assumed name for a general partnership, including a registered limited liability partnership, limited partnership, business trust, corporation, or limited liability company shall be delivered to the Secretary of State for filing, accompanied by one (1) exact or conformed copy. One (1) of the exact or conformed copies stamped as "filed" by the Secretary of State shall be filed with the county clerk of the county where the entity ***maintains its registered agent for service of process or, if no registered agent for service of process is required, with the county clerk of the county where the entity maintains its principal office***~~[is deemed a resident under the provisions of KRS 186A.190(2)(a) to (j)]~~. If the entity ***does not maintain a registered agent for service of process and does not maintain a principal office***~~[is not deemed a resident of a county]~~ in the Commonwealth, the ***certificate of assumed name***~~[entity]~~ shall ***be filed***~~[file]~~ only with the Secretary of State.

(4) ***(a)*** An assumed name ***filed with the Secretary of State*** shall be effective for a term of five (5) years from the date of ***filing***~~[registration]~~ and may be renewed for successive terms upon filing a renewal certificate within six (6) months prior to the expiration of the term, in the same manner of filing the original certificate as set out in subsection (3) of this section. Any certificate in effect on July 15, 1998, shall continue in effect for five (5) years and may be renewed by filing a renewal certificate with the Secretary of State.

(b) Not more than seven (7) months and not less than six (6) months prior to the expiration of the term of a certificate of assumed name filed by a general partnership, including a registered limited liability partnership, limited partnership, business trust, corporation, or limited liability company under subsection (3) of this section, the Secretary of State shall serve the general partnership, including a registered limited liability partnership, limited partnership, business trust, corporation, or limited liability company with written notice of the requirements for the renewal of the certificate of assumed name, as set forth in paragraph (a) of this subsection, by mailing notice by first class mail to the general partnership, including a registered limited liability partnership, limited partnership, business trust, corporation, or limited liability company at the principal office address of record with the Secretary of State, or, if there is no principal office of record with the Secretary of State, the address set forth in the certificate of assumed name.

(c) This subsection shall not apply to a certificate of assumed name filed by an individual with the appropriate county clerk.

(5) Upon discontinuing the use of an assumed name, the certificate shall be withdrawn by filing a certificate in the office wherein the original certificate of assumed name was filed. The certificate of withdrawal shall state the assumed name, the real name and address of the party ***formerly*** transacting business ***under the assumed name*** and the date upon which the original certificate was filed. The certificate of withdrawal shall be signed for a general partnership, including a registered limited liability partnership, by at least one (1) partner authorized to ***act for the partnership***~~[do so by the partners]~~, for a limited partnership by a general partner, for a business trust by ***a trustee***~~[the trustees]~~, for a corporation by any person authorized to act for the corporation, and for a limited liability company by a member or manager authorized to act for the limited liability company.

(6) A general partnership***, except a limited liability partnership,*** shall amend an assumed name to reflect a change in the identity of partners. The amendment shall set forth:

(a) The assumed name and date of original filing;

(b) A statement setting out the changes in identity of the partners; and

(c) Shall be signed by at least one (1) partner authorized to do so by the partners.

(7) ***The filing of a certificate of assumed name shall not automatically prevent the use of that name or protect that name from use by other persons except, if an assumed name is filed and on record with the Secretary of State, the Secretary of State may thereafter refuse to accept for filing a document from another person containing an indistinguishable name.***

(8) Each certificate of assumed name filed by an individual already of record with the appropriate county clerk also may be filed with the Secretary of State so long as the assumed name is distinguishable upon the records of the Secretary of

State from any other name previously filed and on record with the Secretary of State. No filing by the Secretary of State of a certificate of assumed name filed by an individual shall invalidate any certificate of assumed name filed by an individual with the county clerk in accordance with subsection (3) of this section or render the certificate of assumed name subject to subsection (4) of this section.

(9) The county clerk shall receive a fee pursuant to KRS 64.012 for filing each certificate, and the Secretary of State shall receive a fee of twenty dollars ($20) for filing each certificate, amendment, and renewal certificate.

The Committee Substitute to **HB 112** is as follows:

HB 112, AN ACT relating to business names.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 365.015 is amended to read as follows:

(1) The real name of an individual shall include his or her surname at birth, or his or her name as changed by a court of competent jurisdiction, or the surname of a married woman; the real name of a domestic general partnership is that name which includes the real name of each of the partners; the real name of a~~[registered]~~ limited liability partnership is the name stated in its statement of registered limited liability partnership filed under KRS ***362.555***~~[Chapter 362]~~; the real name of a domestic limited partnership is that name stated in its certificate of limited partnership~~[filed pursuant to KRS Chapter 362]~~; the real name of a domestic business trust is the name set forth in the declaration of trust; the real name of a domestic corporation is the name set forth in its articles of incorporation; and the real name of a domestic limited liability company is the name set forth in its articles of organization. The real name of a foreign general partnership, including a foreign~~[registered]~~ limited liability partnership, or limited partnership ***or***~~[and]~~ of a foreign business trust is the name recognized by the laws of the foreign state under which it is formed as being the real name or the fictitious name adopted for use in this state;~~[the real name of a foreign registered limited liability partnership is the name stated in its statement of foreign registered limited liability partnership filed under KRS Chapter 362;]~~ the real name of a foreign corporation is the name set forth in its articles of incorporation or the fictitious name adopted for use in this state under KRS 271B.15-060; and the real name of a foreign limited liability company is the name set forth in its articles of organization or the fictitious name adopted for use in this state under KRS 275.410.

(2) (a) No individual, general partnership, including a~~[registered]~~ limited liability partnership, limited partnership, business trust, corporation, or limited liability company shall conduct or transact business in this state under an assumed name or any style other than his or its real name, as defined in subsection (1) of this section, unless such individual, partnership, limited partnership, business trust, corporation, or limited liability company has filed a certificate of assumed name;

(b) The certificate shall state the assumed name under which the business will be conducted or transacted, the real name of the individual, partnership, limited partnership, business trust, corporation, or limited liability company and his or its address, including street and number, if any;

(c) A separate certificate shall be filed for each assumed name;

(d) No certificate to be filed with the Secretary of State shall set forth an assumed name which is not distinguishable upon the records of the Secretary of State from any other name previously filed and on record with the Secretary of State;

(e) The certificate shall be executed for an individual, by the individual; for a general partnership, including a registered limited liability partnership, by at least one (1) partner authorized to do so by the partners; for a limited partnership, by a general partner; for a business trust, by ***a trustee***~~[the trustees]~~; for a corporation, by any person authorized to act for the corporation; and for a limited liability company, by a member or manager authorized to act for the limited liability company.

(3) ***Each***~~[The]~~ certificate of assumed name for an individual shall be filed with the county clerk where the person ***maintains his or her principal place of business***~~[is deemed a resident under the provisions of KRS 186A.190(2)(a) to (j)]~~. ***Each***~~[The]~~ certificate of assumed name for a general partnership, including a registered limited liability partnership, limited partnership, business trust, corporation, or limited liability company shall be delivered to the Secretary of State for filing, accompanied by one (1) exact or conformed copy. One (1) of the exact or conformed copies stamped as "filed" by the Secretary of State shall be filed with the county clerk of the county where the entity ***maintains its registered agent for service of process or, if no registered agent for service of process is required, with the county clerk of the county where the entity maintains its principal office***~~[is deemed a resident under the provisions of KRS 186A.190(2)(a) to (j)]~~. If the entity ***does not maintain a registered agent for service of process and does not maintain a principal office***~~[is not deemed a resident of a county]~~ in the Commonwealth, the ***certificate of assumed name***~~[entity]~~ shall ***be filed***~~[file]~~ only with the Secretary of State.

(4) ***(a)*** An assumed name shall be effective for a term of five (5) years from the date of ***filing***~~[registration]~~ and may be renewed for successive terms upon filing a renewal certificate within six (6) months prior to the expiration of the term, in the same manner of filing the original certificate as set out in subsection (3) of this section. Any certificate

in effect on July 15, 1998, shall continue in effect for five (5) years and may be renewed by filing a renewal certificate with the Secretary of State.

(b) Not more than seven (7) months and not less than six (6) months prior to the expiration of the term of a certificate of assumed name filed by a general partnership, including a registered limited liability partnership, limited partnership, business trust, corporation, or limited liability company under subsection (3) of this section, the Secretary of State shall serve the general partnership, including a registered limited liability partnership, limited partnership, business trust, corporation, or limited liability company with written notice of the requirements for the renewal of the certificate of assumed name, as set forth in paragraph (a) of this subsection, by mailing notice by first class mail to the general partnership, including a registered limited liability partnership, limited partnership, business trust, corporation, or limited liability company at the principal office address of record with the Secretary of State, or, if there is no principal office of record with the Secretary of State, the address set forth in the certificate of assumed name.

(c) This subsection shall not apply to a certificate of assumed name filed by an individual with the appropriate county clerk.

(5) Upon discontinuing the use of an assumed name, the certificate shall be withdrawn by filing a certificate in the office wherein the original certificate of assumed name was filed. The certificate of withdrawal shall state the assumed name, the real name and address of the party ***formerly*** transacting business ***under the assumed name*** and the date upon which the original certificate was filed. The certificate of withdrawal shall be signed for a general partnership, including a registered limited liability partnership, by at least one (1) partner authorized to ***act for the partnership***[~~do so by the partners~~], for a limited partnership by a general partner, for a business trust by ***a trustee***[~~the trustees~~], for a corporation by any person authorized to act for the corporation, and for a limited liability company by a member or manager authorized to act for the limited liability company.

(6) A general partnership***, except a limited liability partnership,*** shall amend an assumed name to reflect a change in the identity of partners. The amendment shall set forth:

(a) The assumed name and date of original filing;

(b) A statement setting out the changes in identity of the partners; and

(c) Shall be signed by at least one (1) partner authorized to do so by the partners.

(7) ***The filing of a certificate of assumed name shall not automatically prevent the use of that name or protect that name from use by other persons except, if an assumed name is filed and on record with the Secretary of State, the Secretary of State may thereafter refuse to accept for filing a document from another person containing an indistinguishable name.***

(8) The county clerk shall receive a fee pursuant to KRS 64.012 for filing each certificate, and the Secretary of State shall receive a fee of twenty dollars ($20) for filing each certificate, amendment, and renewal certificate.

HB 161, AN ACT relating to the Justice Cabinet.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.280 is repealed, reenacted as a new section of KRS Chapter 15A, and amended to read as follows:

(1) A Criminal Justice Statistical Analysis Center is hereby created as part of the[~~ Kentucky~~] Justice Cabinet.

(2) The Criminal Justice Statistical Analysis Center shall provide its reports and recommendations to the Governor and the General Assembly through the ***office of the secretary of justice***[~~Kentucky Criminal Justice Council~~].

(3) The Criminal Justice Statistical Analysis Center shall:

(a) Improve the quality and usefulness of criminal justice statistics and research results that are disseminated to citizens, public agencies, and private agencies in Kentucky by:

1. Conducting periodic needs assessments of criminal justice agencies;

2. Analyzing offender-based tracking data;

3. Conducting specialized studies that use statistical data which are presently maintained by state and local agencies in Kentucky; and

4. Supporting the implementation of ***the***[~~a~~] statewide unified criminal justice information system[~~ through the Unified Criminal Justice Information System Committee of the Kentucky Criminal Justice Council~~].

(b) ***Publish***[~~Increase the ability of statistical users to translate data and research results into practice by:~~

~~1. Publishing~~] research results and statistical data that are requested by criminal justice agencies[~~; and~~

~~2. Conducting conferences and workshops on the use of statistical information~~];

(c) Improve the relationship between citizens and criminal justice agencies of Kentucky by conducting citizen surveys of the needs, attitudes, and behavior relating to crime and justice; and

(d) Strengthen the relationship between[~~ the~~] Kentucky criminal justice agencies and the[~~ National~~] Bureau of Justice

Statistics, United States Department of Justice, by:

1. Providing justice statistics to the Bureau of Justice Statistics as required; and
2. Serving as a clearinghouse for Bureau of Justice Statistics materials.

(4) The[~~ Kentucky Justice~~] cabinet may expend any federal grants or federal funds provided for carrying out the functions and authority as assigned in this section. Further, the[~~ Kentucky Justice~~] cabinet[~~ through the Kentucky Criminal Justice Council~~] may employ such employees as may be necessary to fulfill the duties, responsibilities, and functions assigned by this section.

Section 2. KRS 15A.040 is amended to read as follows:

[~~(1)~~]The ***office of the secretary of justice***[~~Criminal Justice Council~~] shall advise[~~ and recommend to~~] the Governor and the General Assembly ***on*** policies and direction for long-range planning regarding all elements of the criminal justice system. The ***office shall also***[~~council shall review and make written recommendations on subjects including but not limited to administration of the criminal justice system, the rights of crime victims, sentencing issues, capital litigation, a comprehensive strategy to address gangs and gang problems, and the Penal Code. Recommendations for these and all other issues shall be submitted to the Governor and the Legislative Research Commission at least six (6) months prior to every regular session of the Kentucky General Assembly. The council shall~~]:

(1)[~~(a)~~][~~Make recommendations to the justice secretary with respect to the~~]Award[~~ of~~] state and federal grants and ensure that the grants are consistent with the priorities adopted by the Governor ***and***[~~,~~] the General Assembly[~~, and the council~~];

(2)[~~(b) Conduct comprehensive planning to promote the maximum benefits of grants;~~

~~(c) Develop model criminal justice programs;~~

~~(d)~~] Disseminate information on criminal justice issues and crime trends; ***and***

[~~(e) Work with community leaders to assess the influence of gangs and the problems that gangs cause for local communities, assist local communities in mobilizing community resources to address their problems, sponsor multidisciplinary training to help communities focus on proven strategies to address gang problems, and conduct an ongoing assessment of gang problems in local communities;~~

~~(f) Recommend any modifications of law necessary to insure that the laws adequately address problems identified in local communities relating to gangs;~~]

(3)[~~(g)~~] Provide technical assistance to all criminal justice agencies[~~;~~

~~(h) Review and evaluate proposed legislation affecting criminal justice; and~~

~~(i) All reports and proposed legislation shall be presented to the Interim Joint Committee on Judiciary not later than July 1 of the year prior to the beginning of each regular session of the General Assembly.~~

~~(2) Membership of the Criminal Justice Council shall consist of the following:~~

~~(a) The secretary of the Justice Cabinet or his designee;~~

~~(b) The director of the Administrative Office of the Courts or his designee;~~

~~(c) The Attorney General or his designee;~~

~~(d) Two (2) members of the House of Representatives as designated by the Speaker of the House;~~

~~(e) Two (2) members of the Senate as designated by the President of the Senate;~~

~~(f) A crime victim, as defined in KRS Chapter 346, to be selected and appointed by the Governor;~~

~~(g) A victim advocate, as defined in KRS 421.570, to be selected and appointed by the Governor;~~

~~(h) A Kentucky college or university professor specializing in criminology, corrections, or a similar discipline to be selected and appointed by the Governor;~~

~~(i) The public advocate or his designee;~~

~~(j) The president of the Kentucky Sheriffs' Association;~~

~~(k) The commissioner of state police or his designee;~~

~~(l) A person selected by the Kentucky State Lodge of the Fraternal Order of Police;~~

~~(m) The president of the Kentucky Association of Chiefs of Police;~~

~~(n) A member of the Prosecutors Advisory Council as chosen by the council;~~

~~(o) The Chief Justice or a justice or judge designated by him;~~

~~(p) One (1) member of the Kentucky Association of Criminal Defense Lawyers, appointed by the president of the organization;~~

~~(q) One (1) member of the Kentucky Jailers' Association appointed by the president of the organization;~~

~~(r) One (1) member of the Circuit Clerks' Association;~~

~~(s) Three (3) criminal law professors, one each from the University of Kentucky College of Law, the Louis D.~~

~~Brandeis School of Law at the University of Louisville, and the Salmon P. Chase College of Law at Northern Kentucky University, to be selected and appointed by the Governor;~~

~~(t) One (1) District Judge, designated by the Chief Justice;~~

~~(u) One (1) Circuit Judge, designated by the Chief Justice;~~

~~(v) One (1) Court of Appeals Judge, designated by the Chief Justice;~~

~~(w) One (1) representative from an organization dedicated to restorative principles of justice involving victims, the community, and offenders;~~

~~(x) One (1) individual with a demonstrated commitment to youth advocacy, to be selected and appointed by the Governor;~~

~~(y) The commissioner of the Department of Juvenile Justice or his designee;~~

~~(z) The commissioner of the Department of Corrections, or his designee;~~

~~(aa) The commissioner of the Department of Criminal Justice Training or his designee; and~~

~~(ab) The Governor's chief information officer.~~

~~(3) The secretary of justice shall serve ex officio as chairman of the council. Each member of the council shall have one (1) vote. Members of the council shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties.~~

~~(4) The council shall meet at least once every three (3) months.~~

~~(5) The council may hold additional meetings:~~

~~(a) On the call of the chairman;~~

~~(b) At the request of the Governor to the chairman; or~~

~~(c) At the written request of the members to the chairman, signed by a majority of the members.~~

~~(6) Two-thirds (2/3) members of the council shall constitute a quorum for the conduct of business at a meeting.~~

~~(7) Failure of any member to attend two (2) meetings within a six (6) month period shall be deemed a resignation from the council and a new member shall be named by the appointing authority.~~

~~(8) The council is authorized to establish committees and appoint additional persons who may not be members of the council as necessary to effectuate its purposes, including but not limited to:~~

~~(a) Uniform Criminal Justice Information System committee;~~

~~(b) Committee on sentencing; and~~

~~(c) Penal Code committee.~~

~~(9) The council's administrative functions shall be performed by a full-time executive director, who shall also serve as the executive director of the office of the Criminal Justice Council, appointed by the secretary of the Justice Cabinet and supported by the administrative, clerical, and other staff as allowed by budgetary limitations and as needed to fulfill the council's role and mission and to coordinate its activities~~].

Section 3. KRS 15A.030 is amended to read as follows:

(1) [~~The Justice Cabinet,~~]In addition to the departments set forth in KRS 15A.020, ***the cabinet*** shall consist of the following organizational units which are hereby created or reestablished:

(a)[~~(1)~~] Office of the Secretary of Justice comprised of the secretary***;***[~~ of justice, the Commission on Correction and Community Service, the Kentucky State Corrections Commission, the Office of the Criminal Justice Council, and the Criminal Justice Council. The Parole Board shall be attached to the Office of the Secretary for administrative and support purposes only.~~]

(b)[~~(2)~~] Offices of Deputy Secretaries of Justice***;***[~~.~~]

(c)[~~(3)~~]Office of the General Counsel***;***[~~.~~]

(d)[~~(4) Division of Kentucky State Medical Examiners Office.~~

~~(5)~~] Office of Management, Administrative, and Legal Services***;***

(e) The Commission on Correction and Community Service;

(f) The Kentucky State Corrections Commission;

(g) The Parole Board

(h) Office of the Executive Director of the Parole Board; and

(i) Division of Kentucky State Medical Examiners Office.

(2) The Parole Board shall be attached to the Office of the Secretary for administrative and support purposes only.

(3) The Office of Management, Administrative, and Legal Services[~~, which~~] shall be responsible for providing information systems management, investigative services, and legal services to the Office of the Secretary. The office shall be headed by an executive director appointed by the secretary in accordance with KRS 12.050.

Section 4. KRS 15A.060 is amended to read as follows:

The office of ***the*** secretary of justice shall serve as the state planning agency for purposes of compliance with the ***Omnibus***[~~Federal~~] Crime Control and Safe Streets Act of 1968, ***Pub. L. 90-351,*** as amended, or subsequently adopted federal criminal justice legislation, and provide ***for***[~~staff services to the Criminal Justice Council relating to~~] the administration of ***those***[~~these~~] federally supported programs.

Section 5. KRS 17.131 is amended to read as follows:

(1) There is hereby established the Kentucky Unified Criminal Justice Information System, referred to in this chapter as the "system." The system shall be a joint effort of[~~ the~~] criminal justice agencies and the ***Court of Justice***[~~courts~~]. Notwithstanding any statutes, administrative regulations, ***rules,*** and policies to the contrary, if standards and technologies other than those set by the Governor's Office for Technology are required, the Commonwealth's chief information officer shall review, expedite, and grant appropriate exemptions to effectuate the purposes of the unified criminal justice information system. Nothing in this section shall be construed to hamper any public officer or official, agency, or organization of state or local government from furnishing information or data that they are required or requested to furnish and which they are allowed to procure by law, to the General Assembly, the Legislative Research Commission, or a committee of either. For the purposes of this section, "criminal justice agencies" include all departments of the Justice Cabinet, the Unified Prosecutorial System, Commonwealth's attorneys, county attorneys, the Transportation Cabinet, the Cabinet for Health Services, and any agency with the authority to issue a citation or make an arrest.

(2) The program to design, implement, and maintain the system shall be under the supervision of the ***secretary of the Justice Cabinet, the director of the Administrative Office of the Courts, and the chief information officer***[~~Uniform Criminal Justice Information System Committee of the Criminal Justice Council. The membership of this committee shall be determined by the council, upon the recommendation of the Governor's chief information officer, who shall chair the committee~~].

(3) The ***secretary of the Justice Cabinet***[~~committee~~] shall be responsible for ***the***[~~recommending standards, policies, and other matters to the secretary of justice for~~] promulgation of administrative regulations in accordance with KRS Chapter 13A to implement the policies, standards, and other matters relating to the system and its operation.

(4) [~~The committee shall submit recommendations to the Criminal Justice Council and the secretary of justice for administrative regulations to implement the uniform policy required to operate the system. The committee shall implement the uniform policy.~~

~~(5)~~]The ***administrative regulations***[~~uniform policy~~] shall include a system to enable[~~ the~~] criminal justice agencies and the ***Court of Justice***[~~courts~~] to share data stored in each other's information systems. Initially, the ***administrative regulations***[~~uniform policy~~] shall maximize the use of existing databases and platforms through the use of a virtual database created by network linking of existing databases and platforms among the various ***criminal justice agencies***[~~departments~~]. The ***administrative regulations***[~~uniform policy~~] shall also develop plans for the new open system platforms before the existing platforms become obsolete.

[~~(6) The committee shall be responsible for recommending to the Criminal Justice Council and the secretary of justice any necessary changes in administrative regulations necessary to implement the system. The committee shall also recommend to the Criminal Justice Council, the Chief Justice, and the secretary of justice recommendations for statutory additions or changes necessary to implement and maintain the system. The secretary shall be responsible for reporting approved statutory recommendations to the Governor, the Chief Justice, the Legislative Research Commission, and appropriate committees of the General Assembly.~~

~~(7) The chair of the committee shall report annually to the Criminal Justice Council on the status of the system.~~]

(5)[~~(8)~~] All criminal justice agencies ***and the Court of Justice*** shall follow the policies established by administrative regulation for the exchange of data and connection to the system.

(6)[~~(9)~~] The ***chief information officer***[~~committee~~] shall review how changes to existing criminal justice agency applications impact the new integrated network. Changes to criminal justice agency applications that have an impact on the integrated network shall be coordinated through and approved by the ***chief information officer and the secretary of the Justice Cabinet***[~~committee~~].

(7)[~~(10)~~] Any future state-funded expenditures by a criminal justice agency ***or the Court of Justice*** for computer platforms in support of criminal justice applications shall be reviewed by the ***chief information officer***[~~committee~~].

(8) As part of the unified criminal justice information system, the secretary of the Justice Cabinet, the director of the Administrative Office of the Courts, and the chief information officer shall design and implement an automated warrant system. The automated warrant system shall be compatible with any similar system required by the federal government for inclusion of state information in federal criminal justice databases.

(9)[~~(11)~~] Any criminal justice agency or ***agency in the Court of Justice***[~~officer~~] that does not participate in the ***unified*** criminal justice information system may be denied access to state and federal grant funds.

Section 6. KRS 31.015 is amended to read as follows:

(1) (a) The Public Advocacy Commission shall consist of the following members, none of whom shall be a prosecutor, law enforcement official, or judge, who shall serve terms of four (4) years, except the initial terms shall be established as hereafter provided:

1. Two (2) members appointed by the Governor;

2. One (1) member appointed by the Governor. This member shall be a child advocate or a person with substantial experience in the representation of children;

3.[~~One (1) member who is the executive director of the Criminal Justice Council of the Justice Cabinet;~~

~~4.~~] Two (2) members appointed by the Kentucky Supreme Court;

4.[~~5.~~] Two (2) members, who are licensed to practice law in Kentucky and have substantial experience in the representation of persons accused of crime, appointed by the Governor from a list of three (3) persons submitted to him for each individual vacancy by the board of governors of the Kentucky Bar Association;

5.[~~6.~~] The dean, ex officio, of each of the law schools in Kentucky or his designee; and

6.[~~7.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted to him or her by the joint advisory boards of the Protection and Advocacy Division of the Department of Public Advocacy.

(b) Any member of the commission serving prior to July 15, 2002, shall serve until the expiration of his or her current term of office. Subsequent appointments shall be for a term of four (4) years from the date of expiration of the term for which his or her predecessor was appointed.

(2) At the first meeting of the commission, a drawing by lot shall be conducted to determine the length of each original member's term. Initially there shall be four (4) two (2) year terms, four (4) three (3) year terms, and four (4) four (4) year terms. Vacancies in the membership of the commission shall be filled in the same manner as original appointments. Appointments to fill vacancies occurring before the expiration of a term shall be for the remainder of the unexpired term.

(3) The commission shall first meet at the call of the Governor and thereafter as the commission shall determine on a regular basis, but at least quarterly, and shall be presided over by a chairperson elected by its members for a one (1) year term. A majority of commission members shall constitute a quorum, and decisions shall require the majority vote of those present; except that a recommendation to the Governor pertaining to the appointment, renewal of the appointment, or removal of the public advocate shall require a majority vote of the commission. Each member of the commission shall have one (1) vote, and voting by proxy shall be prohibited.

(4) The public advocate shall, upon appointment or renewal, be an ex officio member of the commission without ***the power to*** vote, shall serve as secretary of the commission, and shall be entitled to attend and participate in all meetings of the commission except discussions relating to renewal of his term or his removal.

(5) Commission members shall be reimbursed for reasonable and necessary expenses incurred while engaged in carrying out the duties of the commission and shall receive one hundred dollars ($100) per day for each meeting attended unless prohibited by law from receiving such compensation.

(6) The commission shall:

(a) Receive applications, interview, and recommend to the Governor three (3) attorneys as nominees for appointment as the public advocate;

(b) Assist the public advocate in drawing up procedures for the selection of his staff;

(c) Review the performance of the public advocacy system and provide general supervision of the public advocate;

(d) Assist the Department of Public Advocacy in ensuring its independence through public education regarding the purposes of the public advocacy system; and

(e) Review and adopt an annual budget prepared by the public advocate for the system and provide support for budgetary requests to the General Assembly.

(7) In no event shall the commission or its members interfere with the discretion, judgment, or advocacy of employees of the Department of Public Advocacy in their handling of individual cases.

Section 7. KRS 196.701 is amended to read as follows:

(1) To develop and implement a statewide strategic plan for community corrections programs, the Kentucky State Corrections Commission is created and is attached to the office of the secretary of the Justice Cabinet. The commission shall consist of eleven (11) members as follows:

(a) The deputy commissioner of the Division of Community Services and Local Facilities;

(b) A Circuit Court judge appointed by the Chief Justice;

(c) A county judge/executive appointed by the Governor;

(d) A county jailer appointed by the Governor;

(e) A Commonwealth's attorney appointed by the Governor;

(f) A victim, as that term is defined in KRS 346.020, appointed by the Governor;

(g) Two (2) service providers from the field of mental health, substance abuse treatment, or vocational and educational training appointed by the Governor;

(h) The ***secretary***[~~executive director of the Office of the Criminal Justice Council~~] or ***his or her***[~~the executive director's~~] designee;

(i) The executive director of the Parole Board; and

(j) The public advocate or his or her designee.

(2) The terms of those members appointed by the appointing authority shall be three (3) years. These members shall serve at the pleasure of the appointing authority and shall be eligible for reappointment. If there is a vacancy, the appointing authority shall immediately make an appointment effective for the unexpired term.

(3) The chairperson of the commission shall be the deputy commissioner of the Division of Community Services and Local Facilities. The commission shall elect from among its members a vice chairperson who shall preside and exercise the functions of the chairperson during absence or disability of the chairperson.

(4) Regular meetings of the commission shall be held at least once every four (4) months at a place, day, and hour determined by the commission. Special meetings shall be held when needed as determined by the chairperson. If five (5) or more members of the commission request in writing that the chairperson call a special meeting, then the chairperson shall call a special meeting.

(5) Members of the commission shall receive reimbursement for necessary expenses for attendance at official commission meetings or public hearings. The administrative functions of the commission shall be performed by a full-time employee of the department who is selected by the commissioner.

Section 8. KRS 210.502 is amended to read as follows:

(1) There is created the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses. The commission shall consist of:

(a) The secretary of the Cabinet for Health Services;

(b) The secretary of the Cabinet for Families and Children;

(c) The secretary of the Justice Cabinet;

(d) The commissioner of the Department for Mental Health and Mental Retardation Services;

(e) The commissioner of the Department for Medicaid Services;

(f) The commissioner of the Department of Corrections;

(g) The commissioner of the Department of Juvenile Justice;

(h) The commissioner of the Department of Education;

(i) The commissioner of the Department of Vocational Rehabilitation;

(j) The director of the Protection and Advocacy Division of the Public Protection and Regulation Cabinet;

(k) The director of the Office of Family Resource and Youth Services Centers;

(l) The executive director of the Office of Aging Services of the Cabinet for Health Services;

(m) The executive director of the Kentucky Agency for Substance Abuse Policy;

(n)[~~The executive director of the Criminal Justice Council;~~

~~(o)~~] The director of the Administrative Office of the Courts;

(o)[~~(p)~~] The chief executive officer of the Kentucky Housing Corporation;

(p)[~~(q)~~] The executive director of the Office of Transportation Delivery of the Transportation Cabinet;

(q)[~~(r)~~] The commissioner of the Department of Public Health;

(r)[~~(s)~~] Three (3) members of the House of Representatives who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Speaker of the House;

(s)[~~(t)~~] Three (3) members of the Senate who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Senate President;

(t)[~~(u)~~] A chairperson and one (1) alternate who is a chairperson of a regional planning council appointed by the secretary of the Cabinet for Health Services from a list of five (5) chairpersons submitted by the Kentucky Association of Regional Mental Health/Mental Retardation Programs;

(u)[~~(v)~~] A consumer and one (1) alternate who is a consumer of mental health or substance abuse services, who is over age eighteen (18), appointed by the secretary of the Cabinet for Health Services from a list of up to three (3) consumers submitted by any consumer advocacy organization operating within Kentucky or submitted by any regional planning council established under KRS 210.506; and

(v)[~~(w)~~] An adult family member and one (1) alternate who is an adult family member of a consumer of mental health or substance abuse services appointed by the secretary of the Cabinet for Health Services from a list of up to three (3) persons submitted by any family advocacy organization operating within Kentucky or submitted by any regional planning council established under KRS 210.506.

(2) The secretary of the Cabinet for Health Services and one (1) member of the General Assembly appointed to the commission shall serve as co-chairs of the commission.

(3) Members designated in paragraphs (a) to *(s)*[~~(t)~~] of subsection (1) of this section shall serve during their terms of office.

(4) Members and alternates designated in paragraphs *(t)*[~~(u)~~] to (w) of subsection (1) of this section shall serve a term of two (2) years and may be reappointed for one (1) additional term. These members may be reimbursed for travel expenses in accordance with administrative regulations governing reimbursement for travel for state employees.

Section 9. KRS 403.700 is amended to read as follows:

(1) The Governor's Council on Domestic Violence and Sexual Assault is created and established for the purpose of planning and direction of legal, protection, and support services related to domestic violence and sexual assault, and to increase the awareness of all Kentuckians regarding the prevalence and impact of these crimes.

(2) Members of the council shall include:

(a) The Attorney General or a designee;

(b) The secretary of the Cabinet for Families and Children or a designee;

(c) The secretary of the Cabinet for Health Services or a designee;

(d) The secretary of the Justice Cabinet or a designee;

(e) The public advocate or a designee;

(f) The executive director of the Governor's Office of Child Abuse and Domestic Violence Services;

(g)[~~ The executive director of the Kentucky Criminal Justice Council;~~

~~(h)~~] The executive director of the Commission on Women;

(h)[~~(i)~~] At the direction of the Chief Justice of the Supreme Court, the director of the Administrative Office of the Courts;

(i)[~~(j)~~] One (1) Circuit Court Judge, one (1) family court judge, and one (1) District Court Judge, who shall be appointed by the Chief Justice of the Supreme Court;

(j)[~~(k)~~] The executive director of the Kentucky Domestic Violence Association;

(k)[~~(l)~~] The president of the Kentucky Domestic Violence Association or a designee;

(l)[~~(m)~~] The executive director of the Kentucky Association of Sexual Assault Programs;

(m)[~~(n)~~] The president of the Kentucky Association of Sexual Assault Programs or a designee;

(n)[~~(o)~~] Two (2) members of the Senate who shall be appointed by the President of the Senate;

(o)[~~(p)~~] Three (3) members of the House of Representatives who shall be appointed by the Speaker of the House; and

(p)[~~(q)~~] The following members, who shall be appointed by the Governor. To be eligible for appointment under this paragraph, a person shall have an understanding of, and demonstrated commitment to, addressing crimes involved in domestic or sexual violence:

1. One (1) county attorney;
2. One (1) Commonwealth's attorney;
3. One (1) Circuit Court Clerk;
4. One (1) sheriff;
5. One (1) peace officer;
6. Two (2) representatives of local domestic violence coordinating councils or sexual assault response teams;
7. One (1) advocate for adult victims of domestic or sexual violence;
8. One (1) advocate for child witnesses of domestic or sexual violence;
9. One (1) physician;
10. One (1) sexual assault nurse examiner;
11. One (1) mental health professional with demonstrated expertise in treating offenders;
12. One (1) employee of the Department for Community Based Services who provides direct services to victims of domestic violence;
13. One (1) person employed as a probation or parole officer; and
14. Two (2) citizen at-large members.

(3) The Governor shall appoint two (2) co-chairs and two (2) vice chairs of the council. One (1) of the vice chairs shall be a council member who is a criminal justice professional. The co-chairs and vice chairs shall serve for a term of one (1) year

after which they may be reappointed by the Governor.

(4) Council members shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment. Members shall not serve longer than two (2) consecutive four (4) year terms.

(5) The council shall establish an executive committee, the membership of which shall be named by the co-chairs of the council.

(6) The duties and responsibilities of the council shall include, but not be limited to, the following:

  (a) Promoting coordination among agencies and officials responsible for addressing domestic violence and sexual assault;

  (b) Determining the availability of services for victims, children who witness domestic violence or sexual assault, and offenders;

  (c) Facilitating the development of local domestic violence councils and sexual assault response teams that shall include publication of model protocols, training, and technical assistance;

  (d) Promoting community awareness and the prevention of domestic and sexual violence;

  (e) Providing assistance to the Attorney General, the Administrative Office of the Courts, the Justice Cabinet, the Cabinet for Families and Children, and the Cabinet for Health Services in the development of training curricula, treatment programs, and model policies related to domestic violence and sexual assault;

  (f) Reviewing and analyzing data and information relating to domestic violence and sexual assault from existing sources including, but not limited to, the Kentucky State Police, the Cabinet for Families and Children, the Cabinet for Health Services, the Department of Corrections, and the Administrative Office of the Courts;

  (g) Recommending to the appropriate entity changes in state programs, legislation, administrative regulations, policies, budgets, and treatment and service standards relating to domestic violence and sexual assault; and

  (h) Preparing a biennial report to be submitted no later than July 1 of every odd-numbered year to the Governor, the Legislative Research Commission, and the Chief Justice of the Supreme Court.

(7) The council shall establish any committees necessary to carry out its duties.

(8) The council shall be attached to the Governor's Office of Child Abuse and Domestic Violence Services for administrative purposes. Members of the council shall be eligible to receive actual and reasonable travel expenses.

(9) The secretary of the Justice Cabinet, the secretary of the Cabinet for Health Services, and the secretary of the Cabinet for Families and Children shall provide the necessary staff to assist the council in carrying out its duties and responsibilities.

Section 10. KRS 15A.011 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "***Cabinet***~~[Secretary]~~" means~~[the secretary of]~~ the Justice Cabinet;

(2) "Commissioner" means the commissioner of the Department of Juvenile Justice;

(3) "Department" means the Department of Juvenile Justice;

(4) "Facility" means any facility operating under the authority or control of the Department of Juvenile Justice; and

(5) "***Secretary" means the secretary of the Justice*** Cabinet~~[" means the Justice Cabinet]~~.

Section 11. KRS 15A.090 is amended to read as follows:

The secretary shall establish the internal organization of the cabinet not ***otherwise*** established ***by the Governor or the General Assembly***~~[in 1974 Acts, Chapter 74]~~ and shall organize the cabinet into such organizational units as the secretary deems necessary to perform the functions, powers***,*** and duties of the cabinet, subject to the provisions of KRS Chapter 12.

Section 12. KRS 15A.160 is amended to read as follows:

The secretary may promulgate administrative regulations in accordance with KRS Chapter 13A ***and direct proceedings and actions for the administration of all laws and functions which are vested in the cabinet***.

Section 13. KRS 16.010 is amended to read as follows:

As used in KRS 16.030 to 16.170, unless the context requires otherwise:

(1) ***"Board" means the State Police Personnel Board;***

(2) "Cabinet" means the Justice Cabinet;

~~[(2) Secretary" means the secretary of justice;]~~

(3) ***"Civilian" means such experts, statisticians, clerks, and other assistants who do not possess the powers of a peace officer;***

(4) "Commissioner" means the commissioner of the Department of State Police;

~~[(4) Officer" means any member of the Kentucky State Police who possesses the powers of a peace officer;]~~

(5) "***Department" means the Department of State Police***~~[Civilian" means such experts, statisticians, clerks, and other~~

~~assistants who do not possess the powers of a peace officer~~];

(6) "***Officer" means any member of the Kentucky State Police who possesses the powers of a peace officer***[~~Board" means the State Police Personnel Board~~]; and

(7) "***Secretary" means the secretary of justice***[~~Department" means the Department of State Police~~].

Section 14. KRS 16.080 is amended to read as follows:

(1) The commissioner shall ***promulgate administrative***[~~adopt, formulate, alter, and repeal rules and~~] regulations for the enlistment, training, discipline, and conduct of officers of the department and he may ***promulgate administrative***[~~make any other rules and~~] regulations for the governing and operation of the department as appear to him reasonably necessary to carry out the provisions of KRS 16.010 to 16.170.

(2) The commissioner may require any officer or civilian who receives or disburses public funds in the course of his duties to file a bond, conditioned that he will honestly, correctly, and according to law, receive, disburse, and account for all public moneys coming into his hands. The commissioner and each officer shall execute a bond to the Commonwealth[~~ of Kentucky~~] in the sum of not less than two thousand dollars ($2,000), conditioned upon the faithful discharge of his duties. The premium on the bonds shall be paid by the department. The commissioner and each officer of the department shall, before entering upon the discharge of their official duties, take the constitutional oath of office.

(3) Subject to the provisions of KRS 56.440 to 56.550, the commissioner, with the approval of the Governor and the secretary of the Finance and Administration Cabinet, may acquire real estate or interests therein, by purchase, lease, or otherwise, necessary for the purposes of the department, and, with like approval, provide for the acquisition or construction of necessary buildings and other permanent structures and facilities. Title to any real estate acquired shall be taken in the name of the Commonwealth.

Section 15. KRS 16.090 is amended to read as follows:

The commissioner is authorized to organize and maintain a training school or schools for officers of the department, and in connection therewith to provide by ***administrative*** regulation the course and conduct of such training and the period of time for which any officer, or any applicant therefor, shall attend such school. The commissioner, under such ***administrative*** regulations as he may ***promulgate***[~~adopt~~], is further authorized, but shall not be required, to make such training facilities available to any local governing unit within this Commonwealth.

Section 16. KRS 196.035 is amended to read as follows:

The secretary shall, except as otherwise provided in KRS 439.250 to 439.560 and KRS Chapter 13A, have the power and authority to ***promulgate***[~~adopt, amend, or rescind~~] administrative regulations he deems necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet, including qualification for the receipt of federal funds and for cooperation with other state and federal agencies. The secretary may delegate to any person appointed the power and authority as he deems reasonable and proper for the effective administration of the cabinet.

Section 17. KRS 196.075 is amended to read as follows:

The department[~~ of Corrections~~], under the direction of the commissioner, shall exercise the functions vested in the department relating to probation and parole. The commissioner shall ***promulgate***[~~make~~] administrative regulations governing parolees and shall have the same powers of arrest as probation and parole officers.

Section 18. KRS 197.010 is amended to read as follows:

[~~Definitions~~]As used in this chapter, unless the context otherwise requires:

(1) "***Cabinet" means the Justice Cabinet***[~~State agency" means any department, board, commission, or agency of the state government~~];

(2) "***Classification" means the systematic assignment of a prisoner to a custody level, program, and penitentiary***[~~Cabinet" means the Justice Cabinet~~];

(3) "Department" means Department of Corrections;

(4) "Penitentiaries" includes the state penal institutions for males at Eddyville, LaGrange, the Green River Correctional Complex, the Luther Luckett Correctional Complex, the Kentucky Correctional Institute for Women, the Northpoint Training Center, the Roederer Correctional Complex, the Eastern Kentucky Correctional Complex, the Western Kentucky Correctional Complex, Frankfort Career Development Center, Blackburn Correctional Complex, and Bell County Forestry Camp, together with the branches thereof, any private prison as provided by KRS 197.500, and any other similar institutions hereafter established***; and***[~~.~~]

(5) "***State agency" means any cabinet, department, division, board, commission, or other agency of the state government***[~~Classification" means the systematic assignment of a prisoner to a custody level, program, and penitentiary~~].

Section 19. KRS 197.020 is amended to read as follows:

(1) The department[~~ of Corrections~~] shall:

(a) ***Promulgate administrative regulations***[~~Formulate and prescribe all necessary regulations and bylaws~~] for the government and discipline of the penitentiary,[~~ the rules for~~] the government and official conduct of all officials connected with the penitentiary***,*** and for the government of the prisoners in their deportment and conduct;

(b) ***Promulgate administrative regulations for***[~~Prescribe~~] the character of food and diet of the prisoners;[~~ rules for~~] the preservation of the health of the prisoners; the daily cleansing of the penitentiary; the cleanliness of the persons of the prisoners; the general sanitary government of the penitentiary and prisoners; the character of the labor; ***the***[~~and~~] quantity of food and clothing; and the length of time during which the prisoners shall be employed daily;

(c) ***Promulgate administrative regulations***[~~Adopt, amend, and rescind,~~] as the department deems necessary ***for***[~~, administrative regulations governing~~] the disposition of abandoned, lost, or confiscated property of prisoners; and

(d) Cause the administrative regulations ***promulgated***[~~prescribed~~] by them, together with the law allowing commutation of time to prisoners for good conduct, to be printed and posted in conspicuous places in the cell houses and workshops.

(2) The department may impose a reasonable fee for the use of medical facilities by a prisoner who has the ability to pay for the medical and dental care. These funds may be deducted from the prisoner's inmate account. A prisoner shall not be denied medical or dental treatment because he has insufficient funds in his inmate account.

(3) The department may promulgate administrative regulations in accordance with KRS Chapter 13A to implement a program that provides for reimbursement of telehealth consultations.

Section 20. KRS 197.110 is amended to read as follows:

The department[~~ of Corrections~~] shall ***promulgate***[~~make~~] administrative regulations it deems necessary and proper in relation to:

(1) The classification of prisoners;

(2) The terms and conditions under which prisoners may be assigned to work under the direction of any other state agency;

(3) The adequate care, supervision, guarding, discipline, maintenance, transportation, and housing of prisoners when assigned to work outside of the prison. The department shall ascertain from the jailer of the county in which the work is being carried on if accommodations are available, and shall place as many prisoners as possible under the care of the jailer;

(4) The payment of money to prisoners and their dependents for work performed, including the amount to be paid and the manner of the payment and distribution thereof;

(5) Any other purposes as the department deems necessary and proper for carrying out the intent of this chapter.

Section 21. KRS 197.500 is amended to read as follows:

As used in KRS 197.505 to 197.525, unless the context otherwise requires:

(1)[~~ "Department" means the Department of Corrections;~~

~~(2)~~] "Adult correctional facility" means any minimum or medium adult penal or correctional facility operated for the purpose of housing convicted felons for the department; and

(2)[~~(3)~~] "Private provider" means a private legal entity authorized to do business in the Commonwealth and which is in the business of establishing, operating, and managing adult correctional facilities.

Section 22. KRS 439.250 is amended to read as follows:

As used in KRS 439.250 to 439.560, unless the context requires otherwise:

(1) "***Board" means the Parole Board created by KRS 439.320***[~~Secretary" means the secretary of the Justice Cabinet~~];

(2) "Commissioner" means the commissioner of the Department of Corrections;

(3) "Department" means the Department of Corrections;

(4) "Deputy commissioner" means the deputy commissioner of the Division of Adult Institutions or the deputy commissioner of the Division of Community Services and Local Facilities of the Department of Corrections; ***and***

(5) "***Secretary" means the secretary of the Justice Cabinet***[~~Board" means the Parole Board created by KRS 439.320~~].

Section 23. KRS 439.470 is amended to read as follows:

(1) The commissioner shall have the power and duty to ***promulgate administrative regulations***[~~make rules~~] for the conduct of persons placed on probation or parole, except the commissioner shall not ***promulgate***[~~make~~] any ***administrative regulation***[~~rule~~] which conflicts with the conditions of probation imposed by the court or conditions of release imposed by the board.

(2) The commissioner may utilize an approved monitoring device as defined in KRS 532.200(5) in the supervision of persons placed on probation or parole and to impose a reasonable fee on the probationer or parolee, as a condition of probation or parole, for equipment usage.

(3) The commissioner, or his designee shall:

(a) Be responsible for any reports of investigation and supervision as may be requested by the board or the courts;

(b) Divide the ***Commonwealth***[~~state~~] into districts and assign probation and parole officers to serve in the various districts and courts;

(c) Direct the work of the officers and other employees assigned to him;

(d) Formulate methods of investigation, supervision, record keeping, and reports;

(e) Conduct training courses for the staff;

(f) Negotiate with public or private groups or institutions for further training of employees and authorize the expenditure of funds for that purpose when needed;

(g) Develop policies on probation and parole work in the light of other welfare administration policies.

Section 24. KRS 439.580 is amended to read as follows:

As used in KRS 439.590 to 439.630, unless the context otherwise requires:

(1) [~~"Secretary" means the secretary of the Justice Cabinet;~~

~~(2)~~]"Commissioner" means the commissioner of the Department of Corrections;

(2)[~~(3)~~] "Department" means the Department of Corrections;

(3)[~~(4)~~] "Facility" means the community correctional center;[~~ and~~]

(4)[~~(5)~~] "Relative" means a spouse; child, including step-child, adopted child or child as to whom the prisoner, though not a biological parent, has acted in the place of a parent; parent including a person who, though not a biological parent, has acted in the place of a parent; brother; sister; or grandparents***; and***

(5) "Secretary" means the secretary of the Justice Cabinet.

Section 25. KRS 441.005 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "***Commissioner" means the Commissioner of the Department of Corrections;***[~~Jail" means county jails and correctional or detention facilities, including correctional facilities defined in KRS 67B.020 and juvenile detention facilities, operated by and under the supervision of any political subdivision.~~]

(2) ***"Department" means the Department of Corrections;***

(3) "Holdover" means any jail housing prisoners for a maximum period of ninety-six (96) continuous hours and excluding times when a prisoner is released for a minimum of seven (7) hours for the purpose of working at his employment, attending an educational institution, or conducting other business pursuant to a court order, or when a prisoner is released for[~~ in~~] court proceedings.

[~~(3) Prisoner" means any person confined in jail pursuant to any code, ordinance, law, or statute of any unit of government and who is:~~

~~(a) Charged with or convicted of an offense; or~~

~~(b) Held for extradition or as a material witness; or~~

~~(c) Confined for any other reason.~~]

(4) "***Jail" means county jails and correctional or detention facilities, including correctional facilities defined in KRS 67B.020, and juvenile detention facilities, operated by and under the supervision of any political subdivision;***[~~Unit of government" means that unit of government including the United States government whose law, statute, ordinance, or code a prisoner is charged with violating. If a person is imprisoned for contempt of court, the state shall be deemed the responsible unit of government.~~]

(5) "***Jail personnel" means deputy jailers, matrons, cooks, and other food service personnel, and other jail employees involved in the supervision, custody, care, or treatment of prisoners in jails but does not include maintenance or clerical personnel;***[~~Department" means the Department of Corrections.~~]

(6) "***Prisoner" means any person confined in jail pursuant to any code, ordinance, law, or statute of any unit of government and who is:***

(a) Charged with or convicted of an offense; or

(b) Held for extradition or as a material witness; or

(c) Confined for any other reason;[~~Jail personnel" means deputy jailers, matrons, cooks, and other food service personnel, and other jail employees involved in the supervision, custody, care, or treatment of prisoners in jails but does not include maintenance or clerical personnel.~~]

(7) "Regional jail" means a jail that may house prisoners for up to one (1) year and which is:

(a) Owned and operated by one (1) county and, on a regular basis, holds prisoners for another county or for the ***Commonwealth***[~~state~~]; or

(b) Owned and operated by two (2) or more counties through a regional jail authority as provided in KRS 441.800***; and***[~~.~~]

(8) "***Unit of government" means that unit of government, including the United States government, under whose law, statute, ordinance, or code a prisoner is charged with violating. If a person is imprisoned for contempt of court, then the state shall be deemed the responsible unit of government***[~~Commissioner" means the Commissioner of the Department~~

~~of Corrections~~].

Section 26. All funds, credits, assets, appropriations, outstanding obligations, equipment, and any and all resources or other tangible property now vested in the Kentucky Criminal Justice Council are hereby transferred and vested in the Justice Cabinet. All reports, documents, surveys, books, records, files, papers or other writing, in the possession of the Kentucky Criminal Justice Council shall remain in the custody of the Justice Cabinet. All confidential records, files or information maintained in accordance with state or federal law or regulations or rules of court shall be retained in accordance with present law, regulation or rules of court until modified or repealed or until the secretary establishes appropriate regulations to protect those records, files, and information.

Section 27. The following KRS sections are repealed:

15A.042 Office of Criminal Justice Council -- Divisions -- Duties -- Executive director.
15A.120 Transfer of functions to cabinet.
15A.130 Transfer of funds, credits, assets, etc., to cabinet.
15A.170 Administrative support services -- Other related programs.
15A.180 Retention and protection of reports, documents, records, etc.
15A.270 Administrative regulations governing fund -- Hearings.
17.080 Justice Cabinet may make rules and direct proceedings.
30A.055 Automated warrant system.

The Committee Substitute to **HB 161** is as follows:

HB 161, AN ACT relating to the Justice Cabinet.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The Criminal Justice Council is hereby created within the Justice Cabinet.

(2) The membership of the council shall consist :

(a) The secretary of justice, who shall serve as the chairman;

(b) The Attorney General or his or her designee;

(c) The chair of the Judiciary Committee of the House of Representatives;

(d) The chair of the Judiciary Committee of the Senate;

(e) The executive director of the Administrative Office of the Courts or his or her designee;

(f) The president of the Kentucky Association of Criminal Defense Lawyers or his or her designee;

(g) The deputy secretary of the Justice Cabinet;

(h) The commissioner of the Department of State Police;

(i) The commissioner of the Department of Criminal Justice Training;

(j) The commissioner of the Department of Corrections; and

(k) The commissioner of the Department of Juvenile Justice.

(3) The council shall undertake such research and other activities as may be authorized or directed by:

(a) The secretary of justice; or

(b) The General Assembly.

(4) The council shall meet on the call of its chairman.

Section 2. KRS 15.280 is repealed, reenacted as a new section of KRS Chapter 15A, and amended to read as follows:

(1) A Criminal Justice Statistical Analysis Center is hereby created as part of the[~~ Kentucky~~] Justice Cabinet.

(2) The Criminal Justice Statistical Analysis Center shall provide its reports and recommendations to the Governor and the General Assembly through the ***office of the secretary of justice***[~~Kentucky Criminal Justice Council~~].

(3) The Criminal Justice Statistical Analysis Center shall:

(a) Improve the quality and usefulness of criminal justice statistics and research results that are disseminated to citizens, public agencies, and private agencies in Kentucky by:

1. Conducting periodic needs assessments of criminal justice agencies;
2. Analyzing offender-based tracking data;
3. Conducting specialized studies that use statistical data which are presently maintained by state and local agencies in Kentucky; and

4. Supporting the implementation of ***the***~~[a]~~ statewide unified criminal justice information system~~[through the Unified Criminal Justice Information System Committee of the Kentucky Criminal Justice Council]~~.

(b) ***Publish***~~[Increase the ability of statistical users to translate data and research results into practice by:~~

~~1. Publishing]~~ research results and statistical data that are requested by criminal justice agencies~~[; and~~

~~2. Conducting conferences and workshops on the use of statistical information]~~;

(c) Improve the relationship between citizens and criminal justice agencies of Kentucky by conducting citizen surveys of the needs, attitudes, and behavior relating to crime and justice; and

(d) Strengthen the relationship between~~[the]~~ Kentucky criminal justice agencies and the~~[National]~~ Bureau of Justice Statistics, United States Department of Justice, by:

1. Providing justice statistics to the Bureau of Justice Statistics as required; and

2. Serving as a clearinghouse for Bureau of Justice Statistics materials.

(4) The~~[Kentucky Justice]~~ cabinet may expend any federal grants or federal funds provided for carrying out the functions and authority as assigned in this section. Further, the~~[Kentucky Justice]~~ cabinet~~[through the Kentucky Criminal Justice Council]~~ may employ such employees as may be necessary to fulfill the duties, responsibilities, and functions assigned by this section.

Section 3. KRS 15A.040 is amended to read as follows:

~~[(1)]~~The ***Office of the Secretary of Justice***~~[Criminal Justice Council]~~ shall advise~~[and recommend to]~~ the Governor and the General Assembly ***on*** policies and direction for long-range planning regarding all elements of the criminal justice system. The ***office shall also***~~[council shall review and make written recommendations on subjects including but not limited to administration of the criminal justice system, the rights of crime victims, sentencing issues, capital litigation, a comprehensive strategy to address gangs and gang problems, and the Penal Code. Recommendations for these and all other issues shall be submitted to the Governor and the Legislative Research Commission at least six (6) months prior to every regular session of the Kentucky General Assembly. The council shall]~~:

(1)~~[(a)][Make recommendations to the justice secretary with respect to the]~~Award~~[of]~~ state and federal grants and ensure that the grants are consistent with the priorities adopted by the Governor ***and***~~[,]~~ the General Assembly~~[, and the council]~~;

(2)~~[(b) Conduct comprehensive planning to promote the maximum benefits of grants;~~

~~(c) Develop model criminal justice programs;~~

~~(d)]~~ Disseminate information on criminal justice issues and crime trends; ***and***

~~[(e) Work with community leaders to assess the influence of gangs and the problems that gangs cause for local communities, assist local communities in mobilizing community resources to address their problems, sponsor multidisciplinary training to help communities focus on proven strategies to address gang problems, and conduct an ongoing assessment of gang problems in local communities;~~

~~(f) Recommend any modifications of law necessary to insure that the laws adequately address problems identified in local communities relating to gangs;]~~

(3)~~[(g)]~~ Provide technical assistance to all criminal justice agencies~~[;~~

~~(h) Review and evaluate proposed legislation affecting criminal justice; and~~

~~(i) All reports and proposed legislation shall be presented to the Interim Joint Committee on Judiciary not later than July 1 of the year prior to the beginning of each regular session of the General Assembly.~~

~~(2) Membership of the Criminal Justice Council shall consist of the following:~~

~~(a) The secretary of the Justice Cabinet or his designee;~~

~~(b) The director of the Administrative Office of the Courts or his designee;~~

~~(c) The Attorney General or his designee;~~

~~(d) Two (2) members of the House of Representatives as designated by the Speaker of the House;~~

~~(e) Two (2) members of the Senate as designated by the President of the Senate;~~

~~(f) A crime victim, as defined in KRS Chapter 346, to be selected and appointed by the Governor;~~

~~(g) A victim advocate, as defined in KRS 421.570, to be selected and appointed by the Governor;~~

~~(h) A Kentucky college or university professor specializing in criminology, corrections, or a similar discipline to be selected and appointed by the Governor;~~

~~(i) The public advocate or his designee;~~

~~(j) The president of the Kentucky Sheriffs' Association;~~

~~(k) The commissioner of state police or his designee;~~

~~(l) A person selected by the Kentucky State Lodge of the Fraternal Order of Police;~~

~~(m) The president of the Kentucky Association of Chiefs of Police;~~

~~(n) A member of the Prosecutors Advisory Council as chosen by the council;~~

~~(o) The Chief Justice or a justice or judge designated by him;~~

~~(p) One (1) member of the Kentucky Association of Criminal Defense Lawyers, appointed by the president of the organization;~~

~~(q) One (1) member of the Kentucky Jailers' Association appointed by the president of the organization;~~

~~(r) One (1) member of the Circuit Clerks' Association;~~

~~(s) Three (3) criminal law professors, one each from the University of Kentucky College of Law, the Louis D. Brandeis School of Law at the University of Louisville, and the Salmon P. Chase College of Law at Northern Kentucky University, to be selected and appointed by the Governor;~~

~~(t) One (1) District Judge, designated by the Chief Justice;~~

~~(u) One (1) Circuit Judge, designated by the Chief Justice;~~

~~(v) One (1) Court of Appeals Judge, designated by the Chief Justice;~~

~~(w) One (1) representative from an organization dedicated to restorative principles of justice involving victims, the community, and offenders;~~

~~(x) One (1) individual with a demonstrated commitment to youth advocacy, to be selected and appointed by the Governor;~~

~~(y) The commissioner of the Department of Juvenile Justice or his designee;~~

~~(z) The commissioner of the Department of Corrections, or his designee;~~

~~(aa) The commissioner of the Department of Criminal Justice Training or his designee; and~~

~~(ab) The Governor's chief information officer.~~

~~(3) The secretary of justice shall serve ex officio as chairman of the council. Each member of the council shall have one (1) vote. Members of the council shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties.~~

~~(4) The council shall meet at least once every three (3) months.~~

~~(5) The council may hold additional meetings:~~

~~(a) On the call of the chairman;~~

~~(b) At the request of the Governor to the chairman; or~~

~~(c) At the written request of the members to the chairman, signed by a majority of the members.~~

~~(6) Two-thirds (2/3) members of the council shall constitute a quorum for the conduct of business at a meeting.~~

~~(7) Failure of any member to attend two (2) meetings within a six (6) month period shall be deemed a resignation from the council and a new member shall be named by the appointing authority.~~

~~(8) The council is authorized to establish committees and appoint additional persons who may not be members of the council as necessary to effectuate its purposes, including but not limited to:~~

~~(a) Uniform Criminal Justice Information System committee;~~

~~(b) Committee on sentencing; and~~

~~(c) Penal Code committee.~~

~~(9) The council's administrative functions shall be performed by a full-time executive director, who shall also serve as the executive director of the office of the Criminal Justice Council, appointed by the secretary of the Justice Cabinet and supported by the administrative, clerical, and other staff as allowed by budgetary limitations and as needed to fulfill the council's role and mission and to coordinate its activities~~].

Section 4. KRS 15A.030 is amended to read as follows:

(1) [~~The Justice Cabinet, ~~]In addition to the departments set forth in KRS 15A.020, ***the cabinet*** shall consist of the following organizational units which are hereby created or reestablished:

(a)[~~(1)~~] Office of the Secretary of Justice comprised of the secretary***;***[~~ of justice, the Commission on Correction and Community Service, the Kentucky State Corrections Commission, the Office of the Criminal Justice Council, and the Criminal Justice Council. The Parole Board shall be attached to the Office of the Secretary for administrative and support purposes only.~~]

(b)[~~(2)~~] Offices of Deputy Secretaries of Justice***;***[~~.~~]

(c)[~~(3)~~]Office of the General Counsel***;***[~~.~~]

(d)[~~(4) Division of Kentucky State Medical Examiners Office.~~

~~(5)~~] Office of Management, Administrative, and Legal Services***;***

(e) The Commission on Correction and Community Service;

(f) The Kentucky State Corrections Commission;

(g) The Parole Board;

(h) Office of the Executive Director of the Parole Board; and

(i) Division of Kentucky State Medical Examiners Office.

(2) The Parole Board shall be attached to the Office of the Secretary for administrative and support purposes only.

(3) The Office of Management, Administrative, and Legal Services[~~, which~~] shall be responsible for providing information systems management, investigative services, and legal services to the Office of the Secretary. The office shall be headed by an executive director appointed by the secretary in accordance with KRS 12.050.

Section 5. KRS 15A.060 is amended to read as follows:

The office of ***the*** secretary of justice shall serve as the state planning agency for purposes of compliance with the ***Omnibus***[~~Federal~~] Crime Control and Safe Streets Act of 1968, ***Pub. L. 90-351,*** as amended, or subsequently adopted federal criminal justice legislation, and provide ***for***[~~staff services to the Criminal Justice Council relating to~~] the administration of ***those***[~~these~~] federally supported programs.

Section 6. KRS 17.131 is amended to read as follows:

(1) There is hereby established the Kentucky Unified Criminal Justice Information System, referred to in this chapter as the "system." The system shall be a joint effort of[~~ the~~] criminal justice agencies and the ***Court of Justice***[~~courts~~]. Notwithstanding any statutes, administrative regulations, ***rules,*** and policies to the contrary, if standards and technologies other than those set by the Governor's Office for Technology are required, the Commonwealth's chief information officer shall review, expedite, and grant appropriate exemptions to effectuate the purposes of the unified criminal justice information system. Nothing in this section shall be construed to hamper any public officer or official, agency, or organization of state or local government from furnishing information or data that they are required or requested to furnish and which they are allowed to procure by law, to the General Assembly, the Legislative Research Commission, or a committee of either. For the purposes of this section, "criminal justice agencies" include all departments of the Justice Cabinet, the Unified Prosecutorial System, Commonwealth's attorneys, county attorneys, the Transportation Cabinet, the Cabinet for Health Services, and any agency with the authority to issue a citation or make an arrest.

(2) The program to design, implement, and maintain the system shall be under the supervision of the ***secretary of the Justice Cabinet and the chief information officer of the Commonwealth, in consultation with the Administrative Office of the Courts***[~~Uniform Criminal Justice Information System Committee of the Criminal Justice Council. The membership of this committee shall be determined by the council, upon the recommendation of the Governor's chief information officer, who shall chair the committee~~].

(3) The ***secretary of the Justice Cabinet***[~~committee~~] shall be responsible for ***the***[~~recommending standards, policies, and other matters to the secretary of justice for~~] promulgation of administrative regulations in accordance with KRS Chapter 13A to implement the policies, standards, and other matters relating to the system and its operation.

(4) [~~The committee shall submit recommendations to the Criminal Justice Council and the secretary of justice for administrative regulations to implement the uniform policy required to operate the system. The committee shall implement the uniform policy.~~

~~(5)~~]The ***administrative regulations***[~~uniform policy~~] shall include a system to enable[~~ the~~] criminal justice agencies[~~ and the courts~~] to share data stored in each other's information systems. Initially, the ***administrative regulations***[~~uniform policy~~] shall maximize the use of existing databases and platforms through the use of a virtual database created by network linking of existing databases and platforms among the various ***criminal justice agencies***[~~departments~~]. The ***administrative regulations***[~~uniform policy~~] shall also develop plans for the new open system platforms before the existing platforms become obsolete.

[~~(6) The committee shall be responsible for recommending to the Criminal Justice Council and the secretary of justice any necessary changes in administrative regulations necessary to implement the system. The committee shall also recommend to the Criminal Justice Council, the Chief Justice, and the secretary of justice recommendations for statutory additions or changes necessary to implement and maintain the system. The secretary shall be responsible for reporting approved statutory recommendations to the Governor, the Chief Justice, the Legislative Research Commission, and appropriate committees of the General Assembly.~~

~~(7) The chair of the committee shall report annually to the Criminal Justice Council on the status of the system.~~]

(5)[~~(8)~~] All criminal justice agencies ***and the Court of Justice*** shall follow the policies established by administrative regulation for the exchange of data and connection to the system.

(6)[~~(9)~~] The ***chief information officer of the Commonwealth***[~~committee~~] shall review how changes to existing criminal justice agency applications impact the new integrated network. Changes to criminal justice agency applications that have an impact on the integrated network shall be coordinated through and approved by the ***chief information officer and the secretary of the Justice Cabinet***[~~committee~~].

(7)[~~(10)~~] Any future state-funded expenditures by a criminal justice agency ***or the Court of Justice*** for computer platforms in support of criminal justice applications shall be reviewed by the ***chief information officer of the***

Commonwealth[~~committee~~].

(8) As part of the unified criminal justice information system, the secretary of the Justice Cabinet, and the chief information officer of the Commonwealth, in consultation with the Administrative Office of the Courts, shall design and implement an automated warrant system. The automated warrant system shall be compatible with any similar system required by the federal government for inclusion of state information in federal criminal justice databases.

(9)[~~(11)~~] Any criminal justice agency or *agency in the Court of Justice*[~~officer~~] that does not participate in the *unified* criminal justice information system may be denied access to state and federal grant funds.

Section 7. KRS 31.015 is amended to read as follows:

(1) (a) The Public Advocacy Commission shall consist of the following members, none of whom shall be a prosecutor, law enforcement official, or judge, who shall serve terms of four (4) years, except the initial terms shall be established as hereafter provided:

1. Two (2) members appointed by the Governor;

2. One (1) member appointed by the Governor. This member shall be a child advocate or a person with substantial experience in the representation of children;

3.[~~One (1) member who is the executive director of the Criminal Justice Council of the Justice Cabinet;~~

~~4.~~] Two (2) members appointed by the Kentucky Supreme Court;

4.[~~5.~~] Two (2) members, who are licensed to practice law in Kentucky and have substantial experience in the representation of persons accused of crime, appointed by the Governor from a list of three (3) persons submitted to him for each individual vacancy by the board of governors of the Kentucky Bar Association;

5.[~~6.~~] The dean, ex officio, of each of the law schools in Kentucky or his designee; and

6.[~~7.~~] One (1) member appointed by the Governor from a list of three (3) persons submitted to him or her by the joint advisory boards of the Protection and Advocacy Division of the Department of Public Advocacy.

(b) Any member of the commission serving prior to July 15, 2002, shall serve until the expiration of his or her current term of office. Subsequent appointments shall be for a term of four (4) years from the date of expiration of the term for which his or her predecessor was appointed.

(2) At the first meeting of the commission, a drawing by lot shall be conducted to determine the length of each original member's term. Initially there shall be four (4) two (2) year terms, four (4) three (3) year terms, and four (4) four (4) year terms. Vacancies in the membership of the commission shall be filled in the same manner as original appointments. Appointments to fill vacancies occurring before the expiration of a term shall be for the remainder of the unexpired term.

(3) The commission shall first meet at the call of the Governor and thereafter as the commission shall determine on a regular basis, but at least quarterly, and shall be presided over by a chairperson elected by its members for a one (1) year term. A majority of commission members shall constitute a quorum, and decisions shall require the majority vote of those present; except that a recommendation to the Governor pertaining to the appointment, renewal of the appointment, or removal of the public advocate shall require a majority vote of the commission. Each member of the commission shall have one (1) vote, and voting by proxy shall be prohibited.

(4) The public advocate shall, upon appointment or renewal, be an ex officio member of the commission without *the power to* vote, shall serve as secretary of the commission, and shall be entitled to attend and participate in all meetings of the commission except discussions relating to renewal of his term or his removal.

(5) Commission members shall be reimbursed for reasonable and necessary expenses incurred while engaged in carrying out the duties of the commission and shall receive one hundred dollars ($100) per day for each meeting attended unless prohibited by law from receiving such compensation.

(6) The commission shall:

(a) Receive applications, interview, and recommend to the Governor three (3) attorneys as nominees for appointment as the public advocate;

(b) Assist the public advocate in drawing up procedures for the selection of his staff;

(c) Review the performance of the public advocacy system and provide general supervision of the public advocate;

(d) Assist the Department of Public Advocacy in ensuring its independence through public education regarding the purposes of the public advocacy system; and

(e) Review and adopt an annual budget prepared by the public advocate for the system and provide support for budgetary requests to the General Assembly.

(7) In no event shall the commission or its members interfere with the discretion, judgment, or advocacy of employees of the Department of Public Advocacy in their handling of individual cases.

Section 8. KRS 196.701 is amended to read as follows:

(1) To develop and implement a statewide strategic plan for community corrections programs, the Kentucky State Corrections Commission is created and is attached to the office of the secretary of the Justice Cabinet. The commission shall consist of

eleven (11) members as follows:

(a) The deputy commissioner of the Division of Community Services and Local Facilities;

(b) A Circuit Court judge appointed by the Chief Justice;

(c) A county judge/executive appointed by the Governor;

(d) A county jailer appointed by the Governor;

(e) A Commonwealth's attorney appointed by the Governor;

(f) A victim, as that term is defined in KRS 346.020, appointed by the Governor;

(g) Two (2) service providers from the field of mental health, substance abuse treatment, or vocational and educational training appointed by the Governor;

(h) The ***secretary***[~~executive director of the Office of the Criminal Justice Council~~] or ***his or her***[~~the executive director's~~] designee;

(i) The executive director of the Parole Board; and

(j) The public advocate or his or her designee.

(2) The terms of those members appointed by the appointing authority shall be three (3) years. These members shall serve at the pleasure of the appointing authority and shall be eligible for reappointment. If there is a vacancy, the appointing authority shall immediately make an appointment effective for the unexpired term.

(3) The chairperson of the commission shall be the deputy commissioner of the Division of Community Services and Local Facilities. The commission shall elect from among its members a vice chairperson who shall preside and exercise the functions of the chairperson during absence or disability of the chairperson.

(4) Regular meetings of the commission shall be held at least once every four (4) months at a place, day, and hour determined by the commission. Special meetings shall be held when needed as determined by the chairperson. If five (5) or more members of the commission request in writing that the chairperson call a special meeting, then the chairperson shall call a special meeting.

(5) Members of the commission shall receive reimbursement for necessary expenses for attendance at official commission meetings or public hearings. The administrative functions of the commission shall be performed by a full-time employee of the department who is selected by the commissioner.

Section 9. KRS 210.502 is amended to read as follows:

(1) There is created the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses. The commission shall consist of:

(a) The secretary of the Cabinet for Health Services;

(b) The secretary of the Cabinet for Families and Children;

(c) The secretary of the Justice Cabinet;

(d) The commissioner of the Department for Mental Health and Mental Retardation Services;

(e) The commissioner of the Department for Medicaid Services;

(f) The commissioner of the Department of Corrections;

(g) The commissioner of the Department of Juvenile Justice;

(h) The commissioner of the Department of Education;

(i) The commissioner of the Department of Vocational Rehabilitation;

(j) The director of the Protection and Advocacy Division of the Public Protection and Regulation Cabinet;

(k) The director of the Office of Family Resource and Youth Services Centers;

(l) The executive director of the Office of Aging Services of the Cabinet for Health Services;

(m) The executive director of the Kentucky Agency for Substance Abuse Policy;

(n)[~~The executive director of the Criminal Justice Council;~~

~~(o)~~] The director of the Administrative Office of the Courts;

(o)[~~(p)~~] The chief executive officer of the Kentucky Housing Corporation;

(p)[~~(q)~~] The executive director of the Office of Transportation Delivery of the Transportation Cabinet;

(q)[~~(r)~~] The commissioner of the Department of Public Health;

(r)[~~(s)~~] Three (3) members of the House of Representatives who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Speaker of the House;

(s)[~~(t)~~] Three (3) members of the Senate who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Senate President;

(t)[~~(u)~~] A chairperson and one (1) alternate who is a chairperson of a regional planning council appointed by the secretary of the Cabinet for Health Services from a list of five (5) chairpersons submitted by the Kentucky Association of Regional Mental Health/Mental Retardation Programs;

(u)[~~(v)~~] A consumer and one (1) alternate who is a consumer of mental health or substance abuse services, who is over age eighteen (18), appointed by the secretary of the Cabinet for Health Services from a list of up to three (3) consumers submitted by any consumer advocacy organization operating within Kentucky or submitted by any regional planning council established under KRS 210.506; and

(v)[~~(w)~~] An adult family member and one (1) alternate who is an adult family member of a consumer of mental health or substance abuse services appointed by the secretary of the Cabinet for Health Services from a list of up to three (3) persons submitted by any family advocacy organization operating within Kentucky or submitted by any regional planning council established under KRS 210.506.

(2) The secretary of the Cabinet for Health Services and one (1) member of the General Assembly appointed to the commission shall serve as co-chairs of the commission.

(3) Members designated in paragraphs (a) to *(s)*[~~(t)~~] of subsection (1) of this section shall serve during their terms of office.

(4) Members and alternates designated in paragraphs *(t)*[~~(u)~~] to (w) of subsection (1) of this section shall serve a term of two (2) years and may be reappointed for one (1) additional term. These members may be reimbursed for travel expenses in accordance with administrative regulations governing reimbursement for travel for state employees.

Section 10. KRS 403.700 is amended to read as follows:

(1) The Governor's Council on Domestic Violence and Sexual Assault is created and established for the purpose of planning and direction of legal, protection, and support services related to domestic violence and sexual assault, and to increase the awareness of all Kentuckians regarding the prevalence and impact of these crimes.

(2) Members of the council shall include:

(a) The Attorney General or a designee;

(b) The secretary of the Cabinet for Families and Children or a designee;

(c) The secretary of the Cabinet for Health Services or a designee;

(d) The secretary of the Justice Cabinet or a designee;

(e) The public advocate or a designee;

(f) The executive director of the Governor's Office of Child Abuse and Domestic Violence Services;

(g)[~~The executive director of the Kentucky Criminal Justice Council;~~

~~(h)~~] The executive director of the Commission on Women;

(h)[~~(i)~~] At the direction of the Chief Justice of the Supreme Court, the director of the Administrative Office of the Courts;

(i)[~~(j)~~] One (1) Circuit Court Judge, one (1) family court judge, and one (1) District Court Judge, who shall be appointed by the Chief Justice of the Supreme Court;

(j)[~~(k)~~] The executive director of the Kentucky Domestic Violence Association;

(k)[~~(l)~~] The president of the Kentucky Domestic Violence Association or a designee;

(l)[~~(m)~~] The executive director of the Kentucky Association of Sexual Assault Programs;

(m)[~~(n)~~] The president of the Kentucky Association of Sexual Assault Programs or a designee;

(n)[~~(o)~~] Two (2) members of the Senate who shall be appointed by the President of the Senate;

(o)[~~(p)~~] Three (3) members of the House of Representatives who shall be appointed by the Speaker of the House; and

(p)[~~(q)~~] The following members, who shall be appointed by the Governor. To be eligible for appointment under this paragraph, a person shall have an understanding of, and demonstrated commitment to, addressing crimes involved in domestic or sexual violence:

1. One (1) county attorney;
2. One (1) Commonwealth's attorney;
3. One (1) Circuit Court Clerk;
4. One (1) sheriff;
5. One (1) peace officer;
6. Two (2) representatives of local domestic violence coordinating councils or sexual assault response teams;
7. One (1) advocate for adult victims of domestic or sexual violence;
8. One (1) advocate for child witnesses of domestic or sexual violence;
9. One (1) physician;
10. One (1) sexual assault nurse examiner;

11. One (1) mental health professional with demonstrated expertise in treating offenders;
12. One (1) employee of the Department for Community Based Services who provides direct services to victims of domestic violence;
13. One (1) person employed as a probation or parole officer; and
14. Two (2) citizen at-large members.

(3) The Governor shall appoint two (2) co-chairs and two (2) vice chairs of the council. One (1) of the vice chairs shall be a council member who is a criminal justice professional. The co-chairs and vice chairs shall serve for a term of one (1) year after which they may be reappointed by the Governor.

(4) Council members shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment. Members shall not serve longer than two (2) consecutive four (4) year terms.

(5) The council shall establish an executive committee, the membership of which shall be named by the co-chairs of the council.

(6) The duties and responsibilities of the council shall include, but not be limited to, the following:

(a) Promoting coordination among agencies and officials responsible for addressing domestic violence and sexual assault;

(b) Determining the availability of services for victims, children who witness domestic violence or sexual assault, and offenders;

(c) Facilitating the development of local domestic violence councils and sexual assault response teams that shall include publication of model protocols, training, and technical assistance;

(d) Promoting community awareness and the prevention of domestic and sexual violence;

(e) Providing assistance to the Attorney General, the Administrative Office of the Courts, the Justice Cabinet, the Cabinet for Families and Children, and the Cabinet for Health Services in the development of training curricula, treatment programs, and model policies related to domestic violence and sexual assault;

(f) Reviewing and analyzing data and information relating to domestic violence and sexual assault from existing sources including, but not limited to, the Kentucky State Police, the Cabinet for Families and Children, the Cabinet for Health Services, the Department of Corrections, and the Administrative Office of the Courts;

(g) Recommending to the appropriate entity changes in state programs, legislation, administrative regulations, policies, budgets, and treatment and service standards relating to domestic violence and sexual assault; and

(h) Preparing a biennial report to be submitted no later than July 1 of every odd-numbered year to the Governor, the Legislative Research Commission, and the Chief Justice of the Supreme Court.

(7) The council shall establish any committees necessary to carry out its duties.

(8) The council shall be attached to the Governor's Office of Child Abuse and Domestic Violence Services for administrative purposes. Members of the council shall be eligible to receive actual and reasonable travel expenses.

(9) The secretary of the Justice Cabinet, the secretary of the Cabinet for Health Services, and the secretary of the Cabinet for Families and Children shall provide the necessary staff to assist the council in carrying out its duties and responsibilities.

Section 11. KRS 15A.011 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "***Cabinet***~~[Secretary]~~" means~~[the secretary of]~~ the Justice Cabinet;

(2) "Commissioner" means the commissioner of the Department of Juvenile Justice;

(3) "Department" means the Department of Juvenile Justice;

(4) "Facility" means any facility operating under the authority or control of the Department of Juvenile Justice; and

(5) "***Secretary" means the secretary of the Justice*** Cabinet~~[" means the Justice Cabinet]~~.

Section 12. KRS 15A.090 is amended to read as follows:

The secretary shall establish the internal organization of the cabinet not ***otherwise*** established ***by the Governor or the General Assembly***~~[in 1974 Acts, Chapter 74]~~ and shall organize the cabinet into such organizational units as the secretary deems necessary to perform the functions, powers***,*** and duties of the cabinet, subject to the provisions of KRS Chapter 12.

Section 13. KRS 15A.160 is amended to read as follows:

The secretary may promulgate administrative regulations in accordance with KRS Chapter 13A ***and direct proceedings and actions for the administration of all laws and functions which are vested in the cabinet***.

Section 14. KRS 16.010 is amended to read as follows:

As used in KRS 16.030 to 16.170, unless the context requires otherwise:

(1) ***"Board" means the State Police Personnel Board;***

(2) "Cabinet" means the Justice Cabinet;

[~~(2) Secretary" means the secretary of justice;~~]

(3) ***"Civilian" means such experts, statisticians, clerks, and other assistants who do not possess the powers of a peace officer;***

(4) "Commissioner" means the commissioner of the Department of State Police;

[~~(4) Officer" means any member of the Kentucky State Police who possesses the powers of a peace officer;~~]

(5) "***Department" means the Department of State Police***[~~Civilian" means such experts, statisticians, clerks, and other assistants who do not possess the powers of a peace officer~~];

(6) "***Officer" means any member of the Kentucky State Police who possesses the powers of a peace officer***[~~Board" means the State Police Personnel Board~~]; and

(7) "***Secretary" means the secretary of justice***[~~Department" means the Department of State Police~~].

Section 15. KRS 16.080 is amended to read as follows:

(1) The commissioner shall ***promulgate administrative***[~~adopt, formulate, alter, and repeal rules and~~] regulations for the enlistment, training, discipline, and conduct of officers of the department and he may ***promulgate administrative***[~~make any other rules and~~] regulations for the governing and operation of the department as appear to him reasonably necessary to carry out the provisions of KRS 16.010 to 16.170.

(2) The commissioner may require any officer or civilian who receives or disburses public funds in the course of his duties to file a bond, conditioned that he will honestly, correctly, and according to law, receive, disburse, and account for all public moneys coming into his hands. The commissioner and each officer shall execute a bond to the Commonwealth[~~ of Kentucky~~] in the sum of not less than two thousand dollars ($2,000), conditioned upon the faithful discharge of his duties. The premium on the bonds shall be paid by the department. The commissioner and each officer of the department shall, before entering upon the discharge of their official duties, take the constitutional oath of office.

(3) Subject to the provisions of KRS 56.440 to 56.550, the commissioner, with the approval of the Governor and the secretary of the Finance and Administration Cabinet, may acquire real estate or interests therein, by purchase, lease, or otherwise, necessary for the purposes of the department, and, with like approval, provide for the acquisition or construction of necessary buildings and other permanent structures and facilities. Title to any real estate acquired shall be taken in the name of the Commonwealth.

Section 16. KRS 16.090 is amended to read as follows:

The commissioner is authorized to organize and maintain a training school or schools for officers of the department, and in connection therewith to provide by ***administrative*** regulation the course and conduct of such training and the period of time for which any officer, or any applicant therefor, shall attend such school. The commissioner, under such ***administrative*** regulations as he may ***promulgate***[~~adopt~~], is further authorized, but shall not be required, to make such training facilities available to any local governing unit within this Commonwealth.

Section 17. KRS 196.035 is amended to read as follows:

The secretary shall, except as otherwise provided in KRS 439.250 to 439.560 and KRS Chapter 13A, have the power and authority to ***promulgate***[~~adopt, amend, or rescind~~] administrative regulations he deems necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet, including qualification for the receipt of federal funds and for cooperation with other state and federal agencies. The secretary may delegate to any person appointed the power and authority as he deems reasonable and proper for the effective administration of the cabinet.

Section 18. KRS 196.075 is amended to read as follows:

The department[~~ of Corrections~~], under the direction of the commissioner, shall exercise the functions vested in the department relating to probation and parole. The commissioner shall ***promulgate***[~~make~~] administrative regulations governing parolees and shall have the same powers of arrest as probation and parole officers.

Section 19. KRS 197.010 is amended to read as follows:

[~~Definitions~~]As used in this chapter, unless the context otherwise requires:

(1) "***Cabinet" means the Justice Cabinet***[~~State agency" means any department, board, commission, or agency of the state government~~];

(2) "***Classification" means the systematic assignment of a prisoner to a custody level, program, and penitentiary***[~~Cabinet" means the Justice Cabinet~~];

(3) "Department" means Department of Corrections;

(4) "Penitentiaries" includes the state penal institutions for males at Eddyville, LaGrange, the Green River Correctional Complex, the Luther Luckett Correctional Complex, the Kentucky Correctional Institute for Women, the Northpoint Training Center, the Roederer Correctional Complex, the Eastern Kentucky Correctional Complex, the Western Kentucky Correctional Complex, Frankfort Career Development Center, Blackburn Correctional Complex, and Bell County Forestry Camp, together with the branches thereof, any private prison as provided by KRS 197.500, and any other similar institutions hereafter established***; and***[~~.~~]

(5) "***State agency" means any cabinet, department, division, board, commission, or other agency of the state government***[~~Classification" means the systematic assignment of a prisoner to a custody level, program, and penitentiary~~].

Section 20. KRS 197.020 is amended to read as follows:

(1) The department[~~ of Corrections~~] shall:

(a) ***Promulgate administrative regulations***[~~Formulate and prescribe all necessary regulations and bylaws~~] for the government and discipline of the penitentiary,[~~ the rules for~~] the government and official conduct of all officials connected with the penitentiary***,*** and for the government of the prisoners in their deportment and conduct;

(b) ***Promulgate administrative regulations for***[~~Prescribe~~] the character of food and diet of the prisoners;[~~ rules for~~] the preservation of the health of the prisoners; the daily cleansing of the penitentiary; the cleanliness of the persons of the prisoners; the general sanitary government of the penitentiary and prisoners; the character of the labor; ***the***[~~and~~] quantity of food and clothing; and the length of time during which the prisoners shall be employed daily;

(c) ***Promulgate administrative regulations***[~~Adopt, amend, and rescind,~~] as the department deems necessary ***for***[~~, administrative regulations governing~~] the disposition of abandoned, lost, or confiscated property of prisoners; and

(d) Cause the administrative regulations ***promulgated***[~~prescribed~~] by them, together with the law allowing commutation of time to prisoners for good conduct, to be printed and posted in conspicuous places in the cell houses and workshops.

(2) The department may impose a reasonable fee for the use of medical facilities by a prisoner who has the ability to pay for the medical and dental care. These funds may be deducted from the prisoner's inmate account. A prisoner shall not be denied medical or dental treatment because he has insufficient funds in his inmate account.

(3) The department may promulgate administrative regulations in accordance with KRS Chapter 13A to implement a program that provides for reimbursement of telehealth consultations.

Section 21. KRS 197.110 is amended to read as follows:

The department[~~ of Corrections~~] shall ***promulgate***[~~make~~] administrative regulations it deems necessary and proper in relation to:

(1) The classification of prisoners;

(2) The terms and conditions under which prisoners may be assigned to work under the direction of any other state agency;

(3) The adequate care, supervision, guarding, discipline, maintenance, transportation, and housing of prisoners when assigned to work outside of the prison. The department shall ascertain from the jailer of the county in which the work is being carried on if accommodations are available, and shall place as many prisoners as possible under the care of the jailer;

(4) The payment of money to prisoners and their dependents for work performed, including the amount to be paid and the manner of the payment and distribution thereof;

(5) Any other purposes as the department deems necessary and proper for carrying out the intent of this chapter.

Section 22. KRS 197.500 is amended to read as follows:

As used in KRS 197.505 to 197.525, unless the context otherwise requires:

(1)[~~"Department" means the Department of Corrections;~~

~~(2)~~] "Adult correctional facility" means any minimum or medium adult penal or correctional facility operated for the purpose of housing convicted felons for the department; and

(2)[~~(3)~~] "Private provider" means a private legal entity authorized to do business in the Commonwealth and which is in the business of establishing, operating, and managing adult correctional facilities.

Section 23. KRS 439.250 is amended to read as follows:

As used in KRS 439.250 to 439.560, unless the context requires otherwise:

(1) "***Board" means the Parole Board created by KRS 439.320***[~~Secretary" means the secretary of the Justice Cabinet~~];

(2) "Commissioner" means the commissioner of the Department of Corrections;

(3) "Department" means the Department of Corrections;

(4) "Deputy commissioner" means the deputy commissioner of the Division of Adult Institutions or the deputy commissioner of the Division of Community Services and Local Facilities of the Department of Corrections; ***and***

(5) "***Secretary" means the secretary of the Justice Cabinet***[~~Board" means the Parole Board created by KRS 439.320~~].

Section 24. KRS 439.470 is amended to read as follows:

(1) The commissioner shall have the power and duty to ***promulgate administrative regulations***[~~make rules~~] for the conduct of persons placed on probation or parole, except the commissioner shall not ***promulgate***[~~make~~] any ***administrative regulation***[~~rule~~] which conflicts with the conditions of probation imposed by the court or conditions of release imposed by the board.

(2) The commissioner may utilize an approved monitoring device as defined in KRS 532.200(5) in the supervision of persons placed on probation or parole and to impose a reasonable fee on the probationer or parolee, as a condition of probation or

parole, for equipment usage.

(3) The commissioner, or his designee shall:

(a) Be responsible for any reports of investigation and supervision as may be requested by the board or the courts;

(b) Divide the ***Commonwealth***[~~state~~] into districts and assign probation and parole officers to serve in the various districts and courts;

(c) Direct the work of the officers and other employees assigned to him;

(d) Formulate methods of investigation, supervision, record keeping, and reports;

(e) Conduct training courses for the staff;

(f) Negotiate with public or private groups or institutions for further training of employees and authorize the expenditure of funds for that purpose when needed;

(g) Develop policies on probation and parole work in the light of other welfare administration policies.

Section 25. KRS 439.580 is amended to read as follows:

As used in KRS 439.590 to 439.630, unless the context otherwise requires:

(1) [~~"Secretary" means the secretary of the Justice Cabinet;~~

~~(2)~~]"Commissioner" means the commissioner of the Department of Corrections;

(2)[~~(3)~~] "Department" means the Department of Corrections;

(3)[~~(4)~~] "Facility" means the community correctional center;[~~ and~~]

(4)[~~(5)~~] "Relative" means a spouse; child, including step-child, adopted child or child as to whom the prisoner, though not a biological parent, has acted in the place of a parent; parent including a person who, though not a biological parent, has acted in the place of a parent; brother; sister; or grandparents***; and***

(5) "Secretary" means the secretary of the Justice Cabinet.

Section 26. KRS 441.005 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "***Commissioner" means the Commissioner of the Department of Corrections;***[~~Jail" means county jails and correctional or detention facilities, including correctional facilities defined in KRS 67B.020 and juvenile detention facilities, operated by and under the supervision of any political subdivision.~~]

(2) ***"Department" means the Department of Corrections;***

(3) "Holdover" means any jail housing prisoners for a maximum period of ninety-six (96) continuous hours and excluding times when a prisoner is released for a minimum of seven (7) hours for the purpose of working at his employment, attending an educational institution, or conducting other business pursuant to a court order, or when a prisoner is released for[~~ in~~] court proceedings.

[~~(3) Prisoner" means any person confined in jail pursuant to any code, ordinance, law, or statute of any unit of government and who is:~~

~~(a) Charged with or convicted of an offense; or~~

~~(b) Held for extradition or as a material witness; or~~

~~(c) Confined for any other reason.~~]

(4) "***Jail" means county jails and correctional or detention facilities, including correctional facilities defined in KRS 67B.020, and juvenile detention facilities, operated by and under the supervision of any political subdivision;***[~~Unit of government" means that unit of government including the United States government whose law, statute, ordinance, or code a prisoner is charged with violating. If a person is imprisoned for contempt of court, the state shall be deemed the responsible unit of government.~~]

(5) "***Jail personnel" means deputy jailers, matrons, cooks, and other food service personnel, and other jail employees involved in the supervision, custody, care, or treatment of prisoners in jails but does not include maintenance or clerical personnel;***[~~Department" means the Department of Corrections.~~]

(6) "***Prisoner" means any person confined in jail pursuant to any code, ordinance, law, or statute of any unit of government and who is:***

(a) Charged with or convicted of an offense; or

(b) Held for extradition or as a material witness; or

(c) Confined for any other reason;[~~Jail personnel" means deputy jailers, matrons, cooks, and other food service personnel, and other jail employees involved in the supervision, custody, care, or treatment of prisoners in jails but does not include maintenance or clerical personnel.~~]

(7) "Regional jail" means a jail that may house prisoners for up to one (1) year and which is:

(a) Owned and operated by one (1) county and, on a regular basis, holds prisoners for another county or for the

Commonwealth[~~state~~]; or

(b) Owned and operated by two (2) or more counties through a regional jail authority as provided in KRS 441.800***; and***[~~.~~]

(8) "***Unit of government" means that unit of government, including the United States government, under whose law, statute, ordinance, or code a prisoner is charged with violating. If a person is imprisoned for contempt of court, then the state shall be deemed the responsible unit of government***[~~Commissioner" means the Commissioner of the Department of Corrections~~].

Section 27. All funds, credits, assets, appropriations, outstanding obligations, equipment, and any and all resources or other tangible property now vested in the Kentucky Criminal Justice Council are hereby transferred and vested in the Justice Cabinet. All reports, documents, surveys, books, records, files, papers or other writing, in the possession of the Kentucky Criminal Justice Council shall remain in the custody of the Justice Cabinet. All confidential records, files or information maintained in accordance with state or federal law or regulations or rules of court shall be retained in accordance with present law, regulation or rules of court until modified or repealed or until the secretary establishes appropriate regulations to protect those records, files, and information.

Section 28. The following KRS sections are repealed:

15A.042	Office of Criminal Justice Council -- Divisions -- Duties -- Executive director.
15A.120	Transfer of functions to cabinet.
15A.130	Transfer of funds, credits, assets, etc., to cabinet.
15A.170	Administrative support services -- Other related programs.
15A.180	Retention and protection of reports, documents, records, etc.
15A.270	Administrative regulations governing fund -- Hearings.
17.080	Justice Cabinet may make rules and direct proceedings.
30A.055	Automated warrant system.

HB 264, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 525.125 is amended to read as follows:

(1) The following persons are guilty of cruelty to animals in the first degree whenever a four-legged animal is caused to fight for pleasure or profit:

(a) The owner of the animal;

(b) The owner of the property on which the fight is conducted if the owner knows of the fight;

(c) Anyone who participates in the organization of the fight.

(2) ***A person is guilty of cruelty to animals in the first degree when, having no right to do so or any reasonable ground to believe that the person has such right, the person intentionally or wantonly defaces, destroys, or damages cattle causing pecuniary loss of one thousand dollars ($1,000) or more.***

(3) Activities of animals engaged in hunting, field trials, dog training, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife shall not constitute a violation of this section.

(4)[~~(3)~~] Cruelty to animals in the first degree is a Class D felony.

The Committee Substitute to **HB 264** is as follows:

HB 264, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 512.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Litter" means rubbish, refuse, waste material, offal, paper, glass, cans, bottles, trash, debris or any foreign substance of whatever kind or description and whether or not it is of value.

(2) "Noxious substance" means any substance capable of generating offensive, noxious or suffocating fumes, gases or vapors.

(3) "Property" includes cattle.

HB 314, AN ACT relating to the Kentucky Rules of Evidence.

WHEREAS, KRE 412 and KRE 608 are now effective as set out below by virtue of their being prior reported to the

General Assembly by the Supreme Court and the General Assembly's failure to disapprove of the amendments; and

WHEREAS, passage by the General Assembly and presentment to the Governor of amendments to the underlying statutory text of KRE 412 and KRE 608 would preserve the unitary nature of the Kentucky Rules of Evidence as both statutes and rules; and

WHEREAS, the Supreme Court has further reported amendments to KRE 804;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRE 412 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(a) Evidence generally inadmissible. The following evidence is not admissible in any civil or criminal proceeding involving alleged sexual misconduct except as provided in subsections (b) and (c):

- *(1) Evidence offered to prove that any alleged victim engaged in other sexual behavior.*
- *(2) Evidence offered to prove any alleged victim's sexual predisposition.*

(b) Exceptions:

- *(1) In a criminal case, the following evidence is admissible, if otherwise admissible under these rules:*
  - *(A) evidence of specific instances of sexual behavior by the alleged victim offered to prove that a person other than the accused was the source of semen, injury, or other physical evidence;*
  - *(B) evidence of specific instances of sexual behavior by the alleged victim with respect to the person accused of the sexual misconduct offered by the accused to prove consent or by the prosecution; and*
  - *(C) any other evidence directly pertaining to the offense charged.*
- *(2) In a civil case, evidence offered to prove the sexual behavior or sexual predisposition of any alleged victim is admissible if it is otherwise admissible under these rules and its probative value substantially outweighs the danger of harm to any victim and of unfair prejudice to any party. Evidence of an alleged victim's reputation is admissible only if it has been placed in controversy by the alleged victim.*

(c) Procedure to determine admissibility.

- *(1) A party intending to offer evidence under subdivision (b) must:*
  - *(A) file a written motion at least fourteen (14) days before trial specifically describing the evidence and stating the purpose for which it is offered unless the court, for good cause requires a different time for filing or permits filing during trial; and*
  - *(B) serve the motion on all parties and notify the alleged victim or, when appropriate, the alleged victim's guardian or representative.*
- *(2) Before admitting evidence under this rule the court must conduct a hearing in camera and afford the victim and parties a right to attend and be heard. The motion, related papers, and the record of the hearing must be sealed and remain under seal unless the court orders otherwise.*

SECTION 2. KRE 608 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(a) Opinion and reputation evidence of character. The credibility of a witness may be attacked or supported by evidence in the form of opinion or reputation, but subject to these limitations: (1) the evidence may refer only to character for truthfulness or untruthfulness, and (2) evidence of truthful character is admissible only after the character of the witness for truthfulness has been attacked by opinion or reputation evidence or otherwise.

(b) Specific instances of conduct. Specific instances of the conduct of a witness, for the purpose of attacking or supporting the witness' credibility, other than conviction of crime as provided in Rule 609, may not be proved by extrinsic evidence. They may, however, in the discretion of the court, if probative of truthfulness or untruthfulness, be inquired into on cross-examination of the witness: (1) concerning the witness' character for truthfulness or untruthfulness, or (2) concerning the character for truthfulness or untruthfulness of another witness as to which character the witness being cross-examined has testified. No specific instance of conduct of a witness may be the subject of inquiry under this provision unless the cross-examiner has a factual basis for the subject matter of his inquiry.

The giving of testimony, whether by an accused or by any other witness, does not operate as a waiver of the accused's or the witness' privilege against self-incrimination when examined with respect to matters which relate only to credibility.

Section 3. KRE 804 is amended to read as follows:

(a) Definition of unavailability. "Unavailability as a witness" includes situations in which the declarant:

- (1) Is exempted by ruling of the court on the ground of privilege from testifying concerning the subject matter of the declarant's statement;
- (2) Persists in refusing to testify concerning the subject matter of the declarant's statement despite an order of the court to do so;
- (3) Testifies to a lack of memory of the subject matter of the declarant's statement;

(4) Is unable to be present or to testify at the hearing because of death or then existing physical or mental illness or infirmity; or

(5) Is absent from the hearing and the proponent of the statement has been unable to procure the declarant's attendance by process or other reasonable means.

A declarant is not unavailable as a witness if his exemption, refusal, claim of lack of memory, inability, or absence is due to the procurement or wrongdoing of the proponent of a statement for the purpose of preventing the witness from attending or testifying.

(b) Hearsay exceptions. The following are not excluded by the hearsay rule if the declarant is unavailable as a witness:

(1) Former testimony. Testimony given as a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or another proceeding, if the party against whom the testimony is now offered, or, in a civil action or proceeding, a predecessor in interest, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination.

(2) Statement under belief of impending death. In a criminal prosecution or in a civil action or proceeding, a statement made by a declarant while believing that the declarant's death was imminent, concerning the cause or circumstances of what the declarant believed to be his impending death.

(3) Statement against interest. A statement which was at the time of its making so far contrary to the declarant's pecuniary or proprietary interest, or so far tended to subject the declarant to civil or criminal liability, or to render invalid a claim by the declarant against another, that a reasonable person in the declarant's position would not have made the statement unless believing it to be true. A statement tending to expose the declarant to criminal liability is not admissible unless corroborating circumstances clearly indicate the trustworthiness of the statement.

(4) Statements of personal or family history.

(A) A statement concerning the declarant's own birth, adoption, marriage, divorce, legitimacy, relationship by blood, adoption, or marriage, ancestry, or other similar fact of personal or family history, even though declarant had no means of acquiring personal knowledge of the matter stated; or

(B) A statement concerning the foregoing matters, and death also, of another person, if the declarant was related to the other by blood, adoption, or marriage or was so intimately associated with the other's family as to be likely to have accurate information concerning the matter declared.

(5) Forfeiture by wrongdoing. A statement offered against a party that has engaged or acquiesced in wrongdoing that was intended to, and did, procure the unavailability of the declarant as a witness.

Section 4. Section 1 and Section 2 of this Act shall be retroactive to July 1, 2003.

HB 371, AN ACT relating to criminal record expungement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

(1) Any person who has been convicted of a Class D felony or a series of Class D felonies arising from a single incident may petition the court in which he was convicted for expungement of his felony record. The person shall be informed of the right at the time of adjudication.

(2) The petition shall be filed no sooner than ten (10) years after the time of adjudication.

(3) Upon the filing of a petition, the court shall set a date for a hearing and shall notify the Commonwealth's attorney, the victim of the crime, if there was an identified victim, and any other person who the petitioner has reason to believe may have relevant information relating to the expungement of the record. Inability to locate the victim shall not delay the proceedings in the case or preclude the holding of a hearing or the issuance of an order of expungement.

(4) When considering an application for felony expungement, the Commonwealth's attorney shall:

(a) Have a criminal record check made to ascertain whether the person is eligible for felony expungement;

(b) Interview the victim of the crime, if there is an identified victim, or, if the victim of the crime is deceased or otherwise unavailable, or the Commonwealth's attorney deems it necessary, interview a member of the victim's family;

(c) Explain to the victim or the victim's family member the expungement statute and any other matters that the Commonwealth's attorney deems appropriate; and

(d) Conduct any other investigation the Commonwealth's attorney determines may be necessary with regard to the petitioner and the circumstances of the crime so as to enable him or her to make an informed decision whether to recommend felony expungement.

(5) The result of any interview and recommendations of the victim of the crime or the victim's family member under subsection (4) of this section may be presented to the court when it considers an application for felony expungement.

(6) The Commonwealth's attorney shall make a recommendation upon each application for felony expungement to the

court.

(7) If the Commonwealth's attorney has recommended against granting the petition for felony expungement, the petition shall be denied.

(8) If the application for felony expungement is approved by the court, the approval shall be in open court and open to the public and the Commonwealth's attorney shall take reasonable steps to notify the victim and the victim's family of the time, date, and location of the hearing.

(9) The court shall order all records in the custody of the court and any records in the custody of any other agency sealed, if, at the hearing, the court finds that:

(a) The offense was not a sex offense or an offense committed against a minor;

(b) The person had no previous felony conviction;

(c) The person has not, since the time of the conviction in question, been convicted of a felony or misdemeanor;

(d) The person is not currently charged with a felony or a misdemeanor;

(e) The person has successfully completed any sentence of incarceration, probation, or conditional discharge;

(f) The person has paid all restitution ordered by a court; and

(g) The offense was an offense against the Commonwealth of Kentucky.

(10) Upon entry of an order to seal the records, and payment to the circuit clerk's office of two hundred fifty dollars ($250), all proceedings in the case shall be deemed never to have occurred, all index references shall be deleted, persons in the court may properly reply that no record exists with respect to the petitioner, and the petitioner shall not have to disclose facts relating to the record on an application for employment, credit, or any other type of application. The fee collected pursuant to this subsection shall be deposited into a trust and agency account for deputy clerks.

(11) Copies of the order of expungement shall be sent to each agency or official holding records of the proceedings in question.

(12) Inspection of records included in the order of expungement may thereafter be permitted by the court only upon petition by the person who is the subject of the records and only to those persons named in the petition.

(13) This section shall be deemed to be retroactive.

Section 2. KRS 431.078 is amended to read as follows:

(1) Any person who has been convicted of a misdemeanor or a violation, or a series of misdemeanors or violations arising from a single incident, may petition the court in which he was convicted for expungement of his misdemeanor or violation record. The person shall be informed of the right at the time of adjudication.

(2) The petition shall be filed no sooner than five (5) years after the ***time of adjudication***[~~completion of the person's sentence or five (5) years after the successful completion of the person's probation, whichever occurs later~~].

(3) Upon the filing of a petition, the court shall set a date for a hearing and shall notify the county attorney; the victim of the crime, if there was an identified victim; and any other person whom the person filing the petition has reason to believe may have relevant information related to the expungement of the record. Inability to locate the victim shall not delay the proceedings in the case or preclude the holding of a hearing or the issuance of an order of expungement.

(4) The court shall order sealed all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records, if at the hearing the court finds that:

(a) The offense was not a sex offense or an offense committed against a child;

(b) The person had no previous felony conviction;

(c) The person had not been convicted of any other misdemeanor or violation offense in the five (5) years prior to the conviction sought to be expunged;

(d) The person had not since the time of the conviction sought to be expunged been convicted of a felony, a misdemeanor, or a violation;

(e) No proceeding concerning a felony, misdemeanor, or violation is pending or being instituted against him; and

(f) The offense was an offense against the Commonwealth of Kentucky.

(5) Upon the entry of an order to seal the records, and payment to the circuit clerk of ***fifty***[~~twenty-five~~] dollars ***($50)***[~~($25)~~], the proceedings in the case shall be deemed never to have occurred; all index references shall be deleted; the persons and the court may properly reply that no record exists with respect to the persons upon any inquiry in the matter; and the person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application. The fee collected pursuant to this subsection shall be deposited into a trust and agency account for deputy clerks.

(6) Copies of the order shall be sent to each agency or official named therein.

(7) Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person who is the subject of the records and only to those persons named in the petition.

(8) This section shall be deemed to be retroactive, and any person who has been convicted of a misdemeanor prior to July 14, 1992, may petition the court in which he was convicted, or if he was convicted prior to the inception of the District Court to the District Court in the county where he now resides, for expungement of the record of one (1) misdemeanor offense or violation or a series of misdemeanor offenses or violations arising from a single incident, provided that the offense was not one specified in subsection (4) and that the offense was not the precursor offense of a felony offense for which he was subsequently convicted. This section shall apply only to offenses against the Commonwealth of Kentucky.

Section 3. KRS 431.076 is amended to read as follows:

(1) A person who has been charged with a criminal offense and who has been found not guilty of the offense, or against whom charges have been dismissed with prejudice, and not in exchange for a guilty plea to another offense, may make a motion, in the District or Circuit Court in which the charges were filed, to expunge all records including, but not limited to, arrest records, fingerprints, photographs, index references, or other data, whether in documentary or electronic form, relating to the arrest, charge, or other matters arising out of the arrest or charge.

(2) The expungement motion shall be filed no sooner than sixty (60) days following the order of acquittal or dismissal by the court.

(3) Following the filing of the motion, the court may set a date for a hearing. If the court does so, it shall notify the county or Commonwealth's attorney, as appropriate, of an opportunity for a response to the expungement motion. In addition, if the criminal charge relates to the abuse or neglect of a child, the court shall also notify the Office of General Counsel of the Cabinet for Families and Children of an opportunity for a response to the expungement motion. The counsel for the Cabinet for Families and Children shall respond to the expungement motion, within twenty (20) days of receipt of the notice, which period of time shall not be extended by the court, if the Cabinet for Families and Children has custody of records reflecting that the person charged with the criminal offense has been determined by the cabinet or by a court under KRS Chapter 620 to be a substantiated perpetrator of child abuse or neglect. If the cabinet fails to respond to the expungement motion or if the cabinet fails to prevail, the order of expungement shall extend to the cabinet's records. If the cabinet prevails, the order of expungement shall not extend to the cabinet's records.

(4) If the court finds that there are no current charges or proceedings pending relating to the matter for which the expungement is sought, the court may grant the motion and order the sealing of all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records. The court shall order the sealing on a form provided by the Administrative Office of the Courts. Every agency, with records relating to the arrest, charge, or other matters arising out of the arrest or charge, that is ordered to seal records, shall certify to the court within sixty (60) days of the entry of the expungement order, that the required sealing action has been completed. All orders enforcing the expungement procedure shall also be sealed.

(5) After the expungement, the proceedings in the matter shall be deemed never to have occurred. The court and other agencies shall reply to any inquiry that no record exists on the matter. The person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application.

(6) Inspection of the expunged records may thereafter be permitted by the court only upon a motion by the person who is the subject of the records and only to those persons named in the motion.

(7) This section shall be retroactive.

(8) Any person filing a motion after a dismissal resulting from successful completion of a diversion or mediation program shall make a payment to the circuit clerk of fifty dollars ($50).

Section 4. KRS 527.040 is amended to read as follows:

(1) A person is guilty of possession of a firearm by a convicted felon when he possesses, manufactures, or transports a firearm when he has been convicted of a felony, as defined by the laws of the jurisdiction in which he was convicted, in any state or federal court and has not:

(a) Been granted a full pardon by the Governor or by the President of the United States;

(b) Been granted relief by the United States Secretary of the Treasury pursuant to the Federal Gun Control Act of 1968, as amended*; or*

(c) Had his record expunged by any court of the Commonwealth of Kentucky.

(2) Possession of a firearm by a convicted felon is a Class D felony unless the firearm possessed is a handgun in which case it is a Class C felony.

(3) The provisions of this section shall apply to any youthful offender convicted of a felony offense under the laws of this Commonwealth. The exceptions contained in KRS 527.100 prohibiting possession of a handgun by a minor shall not apply to this section.

(4) The provisions of this section with respect to handguns, shall apply only to persons convicted after January 1, 1975, and with respect to other firearms, to persons convicted after July 15, 1994.

HB 410, AN ACT relating to sex offenders.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 17.500 is amended to read as follows:

As used in KRS 17.500 to 17.540:

(1) "Cabinet" means the Justice Cabinet.

(2) (a) Except as provided in paragraph (b) of this subsection, "criminal offense against a victim who is a minor" means any of the following offenses if the victim is under the age of eighteen (18) at the time of the commission of the offense:

1. Kidnapping, as set forth in KRS 509.040, except by a parent;
2. Unlawful confinement, as set forth in KRS 509.020, except by a parent;
3. Sex crime;
4. Promoting a sexual performance of a minor, as set forth in KRS 531.320;
5. Promoting prostitution, as set forth in KRS 529.030, 529.040, and 529.050, when the defendant advances or profits from the prostitution of a person under the age of eighteen (18);
6. Use of a minor in a sexual performance, as set forth in KRS 531.310;
7. Sexual abuse, as set forth in KRS 510.120 and 510.130;
8. Any attempt to commit any of the offenses described in subparagraphs 1. to 7. of this paragraph; and
9. Solicitation to commit any of the offenses described in subparagraphs 1. to 7. of this paragraph.

(b) Conduct which is criminal only because of the age of the victim shall not be considered a criminal offense against a victim who is a minor if the perpetrator was under the age of eighteen (18) at the time of the commission of the offense.

(3) "Law enforcement agency" means any lawfully organized investigative agency, police unit, or police force of federal, state, county, city, metropolitan government, or a combination of these, responsible for the detection of crime and the enforcement of the general criminal federal or state laws.

(4) "Registrant" means:

(a) Any person eighteen (18) years of age or older at the time of the offense or any youthful offender, as defined in KRS 600.020, who has committed:

1. A sex crime; or
2. A criminal offense against a victim who is a minor; or

(b) Any person required to register under KRS 17.510(6) or (7); or

(c) Any sexually violent predator.

(5) "Registrant information" means the name, Social Security number, age, race, sex, date of birth, height, weight, hair and eye color, fingerprints, a photograph, aliases used, residence, a brief description of the crime or crimes committed, and other information the cabinet determines, by administrative regulation, may be useful in the identification of registrants.

(6) "Sex crime" means:

(a) A felony offense defined in***:***

1. KRS Chapter 510***;***~~[,]~~

2. KRS 530.020***;***~~[,]~~

3. KRS 530.064, ***if the offender knowingly induces, assists, or causes a minor to engage in illegal sexual activity;***

4. KRS 531.310***;***~~[,]~~ or

5. KRS 531.320;

(b) A felony attempt to commit a felony offense specified in paragraph (a) of this subsection; or

(c) A federal felony offense, a felony offense subject to a court-martial of the United States Armed Forces, or a felony offense from another state or a territory where the felony offense is similar to a felony offense specified in paragraph (a) of this subsection.

(7) "Sexually violent predator" means any person who has been subjected to involuntary civil commitment as a sexually violent predator, or a similar designation, under a state, territory, or federal statutory scheme.

Section 2. KRS 17.576 is amended to read as follows:

Communications made in the course of comprehensive sex offender presentence evaluations or treatment to the approved provider and any employee of the approved provider who is assigned to assist in the assessments shall be privileged from disclosure in any civil or criminal proceeding, other than to determine sentence, unless the offender consents in writing to the disclosure or the communication is related to an ongoing criminal investigation. The *sex*[~~sexual~~] offender shall be informed in writing of the limits of the privilege created in this section.

Section 3. KRS 197.400 is amended to read as follows:

The department shall operate a specialized treatment program for *sex*[~~sexual~~] offenders, hereinafter referred to as the "program."

Section 4. KRS 197.410 is amended to read as follows:

(1) A person is considered to be a "*sex*[~~sexual~~] offender" as used in this chapter when he or she has been adjudicated guilty of a sex crime, as defined in KRS 17.500, or any similar offense in another jurisdiction.

(2) A *sex*[~~sexual~~] offender becomes an "eligible *sex*[~~sexual~~] offender" when the sentencing court or department officials, or both, determine that the offender:

  (a) Has demonstrated evidence of a mental, emotional, or behavioral disorder, but not active psychosis or mental retardation; and

  (b) Is likely to benefit from the program.

(3) "Department" is the Department of Corrections.

Section 5. KRS 197.420 is amended to read as follows:

(1) The department shall have the sole authority and responsibility for establishing by regulation the design of the specialized program created in KRS 197.400 to 197.440.

(2) The program shall include diagnostic and treatment services in both inpatient and outpatient environments:

  (a) "Diagnostic services" shall include social and family histories, medical history, educational development, interpersonal development, criminal history, psychological screening, and pre-release evaluation;

  (b) "Treatment services" shall include individualized treatment plans to include individual, group, marital, and family counseling; psychoeducational courses to include sex education and victim personalization; and social skills development to include assertiveness training, stress management, and aggression management; and

  (c) The department shall have the authority and responsibility for establishing other educational and work programs necessary to complement treatment program objectives.

(3) The department may transfer *sex*[~~sexual~~] offenders sentenced to its custody to the program and shall adopt administrative regulations concerning the transfer of *sex*[~~sexual~~] offenders.

(4) All *sex*[~~sexual~~] offenders participating in the program may be housed separately from all other incarcerated inmates but shall be housed in accordance with the department's standard classification system.

(5) The treatment staff of the program shall minimumly consist of the following staff:

  (a) A program director who has at least a master's degree in a recognized mental health field and six (6) years' clinical experience or a doctoral degree in a recognized mental health field and four (4) years' clinical experience. The director shall decide program policies and supervise all staff;

  (b) A clinical psychologist or a master's degree level psychologist for each two hundred (200) participants. At least one (1) clinical psychologist shall be a member of the staff at all times; and

  (c) A counselor for each fifty (50) participants.

(6) The department shall establish a system of data collection and program evaluation so as to allow study of participating *sex*[~~sexual~~] offenders and their offenses and to measure the impact of the program on recidivism.

Section 6. KRS 197.440 is amended to read as follows:

Communications made in the application for or in the course of a *sex*[~~sexual~~] offender's diagnosis and treatment in the program between a *sex*[~~sexual~~] offender or member of the offender's family and any employee of the department who is assigned to work in the program, or approved provider, as defined in KRS 17.550, shall be privileged from disclosure in any civil or criminal proceeding, other than proceedings to determine the sentence, unless the offender consents in writing to the disclosure or the communication is related to an ongoing criminal investigation. The privilege created by this section shall not extend to disclosures made for the purpose of determining whether the offender should continue to participate in the program. The offender shall be informed in writing of the limits of the privilege created in this section.

Section 7. KRS 439.340 is amended to read as follows:

(1) The board may release on parole persons confined in any adult state penal or correctional institution of Kentucky or sentenced felons incarcerated in county jails eligible for parole. All paroles shall issue upon order of the board duly adopted. As soon as practicable after his admission to an adult state penal or correctional institution or county jail if he is a sentenced felon, and at such intervals thereafter as it may determine, the Department of Corrections shall obtain all pertinent information regarding each prisoner, except those not eligible for parole. The information shall include his criminal record, his conduct, employment, and attitude in prison, and the reports of physical and mental examinations that have been made. The Department of Corrections shall furnish the circumstances of his offense and his previous social history to the institution and the board. The Department of Corrections shall prepare a report on any information it obtains. It shall be the duty of the Department of Corrections to supplement this report with any material the board may request and

submit the report to the board.

(2) Before granting the parole of any prisoner, the board shall consider the pertinent information regarding the prisoner and shall have him appear before it for interview and hearing. The board in its discretion may hold interviews and hearings for prisoners convicted of Class D felonies. The board in its discretion may request the parole board of another state confining prisoners pursuant to KRS 196.610 to interview eligible prisoners and make a parole recommendation to the board. A parole shall be ordered only for the best interest of society and not as an award of clemency, and it shall not be considered a reduction of sentence or pardon. A prisoner shall be placed on parole only when arrangements have been made for his proper employment or for his maintenance and care, and when the board believes he is able and willing to fulfill the obligations of a law abiding citizen. Notwithstanding any statute to the contrary, including KRS 440.330, when a prisoner is otherwise eligible for parole and the board has recommended parole for that prisoner for the reasons set forth in subsection (2) of this section, the board may grant parole to any prisoner wanted as a fugitive by any other jurisdiction, and the prisoner shall be released to the detainer from that jurisdiction. Such parole shall not constitute a relinquishment of jurisdiction over the prisoner, and the board in all cases expressly reserves the right to return the prisoner to confinement in a correctional institution of the Commonwealth if the prisoner violates the terms of his or her parole.

(3) The board shall adopt administrative regulations with respect to the eligibility of prisoners for parole, the conduct of parole and parole revocation hearings, or conditions to be imposed upon parolees. Regulations governing the eligibility of prisoners for parole shall be in accordance with professionally accepted ideas of correction and reform and may utilize in part objective, performance-based criteria; however, nothing herein contained shall preclude the board from utilizing its present regulations in conjunction with other factors involved that would relate to the inmate's needs and the safety of the public.

(4) The board shall insure that sentenced felons confined in county jails are considered for parole within thirty (30) days of their parole eligibility date and the Department of Corrections shall provide the necessary assistance and information to the board in order for it to conduct timely parole reviews.

(5) In addition to or in conjunction with each hearing conducted under subsection (2) of this section for any prisoner convicted of a Class A, B, or C felony and prior to the granting of a parole to any such prisoner, the parole board shall conduct a hearing of which the following persons shall receive not less than forty-five (45) nor more than ninety (90) days' notice: the Commonwealth's attorney who shall notify the sheriff of every county and the chief of police of every city and county in which the prisoner committed any Class A, B, or C felony for which he is imprisoned, and all identified victims of the crimes or the next of kin of any victim who is deceased. Notice to the Commonwealth's attorney shall be by mail to his business office. Notices received by chiefs of police and sheriffs shall be posted in a conspicuous location where police employed by the department may see it. Notices shall be posted in a manner and at a time that will allow officers to make comment thereon to the Parole Board. Notice to victims or their next of kin shall be made, for prisoners incarcerated prior to July 15, 1986, by mail to the Commonwealth's attorney who shall forward the notice promptly to the victims or their next of kin at their last known address. For prisoners incarcerated on or after July 15, 1986, notice to the victims or their next of kin shall be by mail from the Parole Board to their last known address as provided by the Commonwealth's attorney to the Parole Board at the time of incarceration of the prisoner. Notice to the victim or the next of kin of subsequent considerations for parole after the initial consideration shall not be sent if the victim or the next of kin gives notice to the board that he or she no longer wants to receive such notices. The notice shall include the time, date, and place of the hearing provided for in this subsection, and the name and address of a person to write if the recipient of the notice desires to attend the hearing or to submit written comments.

(6) Persons receiving notice as provided for in subsection (5) of this section may submit comments, in person or in writing, to the board upon all issues relating to the parole of the prisoner. The board shall read and consider all comments prior to making its parole decision, if they are received by the board not less than seven (7) days before the date for the hearing. The board shall retain all comments in the prisoner's permanent Parole Board file, and shall consider them in conjunction with any subsequent parole decisions affecting the prisoner. In addition to officers listed in subsection (5) of this section, the crime victims or the next of kin of any victim who is deceased or who is disabled and cannot attend the hearing or the parent or legal guardian of any victim who is a minor may attend the hearing provided for in subsection (5) of this section and present oral and written comments upon all issues relating to the parole of the prisoner, if they have advised the board, in writing received by the board not less than seven (7) days prior to the date set for the hearing, of their intention to attend the hearing. The board shall receive and consider all comments, shall make a record of them which it shall retain in the prisoner's permanent Parole Board file, and shall consider them in conjunction with any subsequent parole decision affecting the prisoner. Persons appearing before the Parole Board pursuant to this subsection may elect to make their presentations outside of the presence of the prisoner.

(7) Victims of Class D felonies may submit comments in person or in writing to the board upon all issues relating to the parole of a prisoner.

(8) Any hearing provided for in subsections (5), (6), and (7) of this section shall be open to the public unless the persons having a right to appear before the board as specified in those subsections request closure of hearing for reasons of personal safety, in which event the hearing shall be closed. The time, date, and location of closed hearings shall not be disclosed to the public.

(9) Except as specifically set forth in this section, nothing in this section shall be deemed to expand or abridge any existing

rights of persons to contact and communicate with the Parole Board or any of its members, agents, or employees.

(10) The unintentional failure by the Parole Board, sheriff, chief of police, or any of its members, agents, or employees or by a Commonwealth's attorney or any of his agents or employees to comply with any of the provisions of subsections (5), (6), and (8) of this section shall not affect the validity of any parole decision or give rise to any right or cause of action by the crime victim, the prisoner, or any other person.

(11) No eligible *sex*~~[sexual]~~ offender within the meaning of KRS 197.400 to 197.440 shall be granted parole unless he has successfully completed the *Sex*~~[Sexual]~~ Offender Treatment Program.

(12) Any prisoner who is granted parole after completion of the *Sex*~~[Sexual]~~ Offender Treatment Program shall be required, as a condition of his parole, to participate in regular treatment in a mental health program approved or operated by the Department of Corrections.

(13) When an order for parole is issued, it shall recite the conditions thereof.

Section 8. KRS 532.045 is amended to read as follows:

(1) As used in this section:

(a) "Position of authority" means, but is not limited to, the position occupied by a biological parent, adoptive parent, stepparent, foster parent, relative, household member, adult youth leader, recreational staff, or volunteer who is an adult, adult athletic manager, adult coach, teacher, classified school employee, certified school employee, counselor, staff, or volunteer for either a residential treatment facility, a holding facility as defined in KRS 600.020, or a detention facility as defined in KRS 520.010(4), staff or volunteer with a youth services organization, religious leader, health care provider, or employer;

(b) "Position of special trust" means a position occupied by a person in a position of authority who by reason of that position is able to exercise undue influence over the minor; and

(c) "Substantial sexual conduct" means penetration of the vagina or rectum by the penis of the offender or the victim, by any foreign object; oral copulation; or masturbation of either the minor or the offender.

(2) Notwithstanding other provisions of applicable law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within the provision of this section be stricken for a person convicted of violating KRS 510.050, 510.080, 529.030 to 529.050, 529.070, 530.020, 531.310, 531.320, 531.370, or criminal attempt to commit any of these offenses under KRS 506.010, and, who meets one (1) or more of the following criteria:

(a) A person who commits any of the offenses enumerated in this subsection against a minor by the use of force, violence, duress, menace, or threat of bodily harm;

(b) A person who, in committing any of the offenses enumerated in this subsection, caused bodily injury to the minor;

(c) A person convicted of any of the offenses enumerated in this subsection and who was a stranger to the minor or made friends with the minor for the purpose of committing an act constituting any of the offenses enumerated in this subsection, unless the defendant honestly and reasonably believed the minor was eighteen (18) years old or older;

(d) A person who used a dangerous instrument or deadly weapon against a minor during the commission of any of the offenses enumerated in this subsection;

(e) A person convicted of any of the offenses enumerated in this subsection and who has had a prior conviction of assaulting a minor, with intent to commit an act constituting any of the offenses enumerated in this subsection;

(f) A person convicted of kidnapping a minor in violation of the Kentucky Penal Code and who kidnapped the minor for the purpose of committing an act constituting any of the offenses enumerated in this subsection;

(g) A person who is convicted of committing any of the offenses enumerated in this subsection on more than one (1) minor at the same time or in the same course of conduct;

(h) A person who in committing any of the offenses enumerated in this subsection has substantial sexual conduct with a minor under the age of fourteen (14) years; or

(i) A person who occupies a position of special trust and commits an act of substantial sexual conduct.

Nothing in this section shall be construed to prohibit the additional period of three (3) years' conditional discharge required by KRS 532.043.

(3) If a person is not otherwise prohibited from obtaining probation or conditional discharge under subsection (2), the court may impose on the person a period of probation or conditional discharge. Probation or conditional discharge shall not be granted until the court is in receipt of the comprehensive sex offender presentence evaluation of the offender performed by an approved provider, as defined in KRS 17.550 or the Department of Corrections. The court shall use the comprehensive sex offender presentence evaluation in determining the appropriateness of probation or conditional discharge.

(4) If the court grants probation or conditional discharge, the offender shall be required, as a condition of probation or conditional discharge, to successfully complete a community-based *sex*~~[sexual]~~ offender treatment program operated or approved by the Department of Corrections or the Sex Offender Risk Assessment Advisory Board.

(5) The offender shall pay for any evaluation or treatment required pursuant to this section up to the offender's ability to pay but not more than the actual cost of the comprehensive sex offender presentence evaluation or treatment.

(6) Failure to successfully complete the *sex*[~~sexual~~] offender treatment program constitutes grounds for the revocation of probation or conditional discharge.

(7) The comprehensive sex offender presentence evaluation and all communications relative to the comprehensive sex offender presentence evaluation and treatment of a *sex*[~~sexual~~] offender shall fall under the provisions of KRS 197.440. The comprehensive sex offender presentence evaluation shall be filed under seal and shall not be made a part of the court record subject to review in appellate proceedings and shall not be made available to the public.

(8) Before imposing sentence, the court shall advise the defendant or his counsel of the contents and conclusions of any comprehensive sex offender presentence evaluation performed pursuant to this section and afford a fair opportunity and a reasonable period of time, if the defendant so requests, to controvert them. The court shall provide the defendant's counsel and the Commonwealth's attorney a copy of the comprehensive sex offender presentence evaluation. It shall not be necessary to disclose the sources of confidential information.

(9) To the extent that this section conflicts with KRS 533.010, this section shall take precedence.

HB 445, AN ACT relating to the protection of Social Security number disclosures in domestic relations cases.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

(1) Where another section of this chapter or KRS 407.5311 or 407.5602 requires the provision of a Social Security number in a court filing or order, the party making the filing or the court in filing an order of the court shall provide the number in accordance with this section. The Social Security number shall not be placed in the text of the filing itself, but shall be included as an attachment to the filing in a document captioned as a domestic relations Social Security number identification form. This form shall be considered as part of the filing to which it is attached, and any requirement for verification or certification of the original filing or order shall apply to the form as well.

(2) The domestic relations Social Security number identification form shall indicate on its face the document to which it is attached and shall include the names and corresponding Social Security numbers required to have been included in the filing. The form shall be transmitted between the court, the parties to the case, and any persons subject to an order of the court together with the filing or order to which it is attached, but shall be segregated in accordance with subsection (3) of this section when received by the clerk of the Circuit Court.

(3) Upon receipt of a domestic relations Social Security number identification form, the clerk of the Circuit Court shall keep the form as part of the record of the case, but shall seal that form and store the form in a segregated, secure location, such as a separate locked filing cabinet. The clerk of the court shall only allow that form to be accessed by a party to the case, an attorney of record in the case, a judge of the court or other authorized court personnel, a duly authorized employee or agent of the Cabinet for Families and Children involved in child support matters attendant to the case, or a person authorized to view the form by specific order of the court.

(4) The Administrative Office of the Courts shall create, within five (5) days of the effective date of this Act, forms sufficient to meet the requirements of this Act, and the Supreme Court may by rule require the use of these forms in lieu of documents prepared by the parties or by the court.

Section 2. KRS 403.150 is amended to read as follows:

(1) All proceedings under this chapter are commenced in the manner provided by the Rules of Civil Procedure.

(2) The verified petition in a proceeding for dissolution of marriage or legal separation shall allege the marriage is irretrievably broken and shall set forth:

- (a) The age, occupation, Social Security number *provided in accordance with Section 1 of this Act*, and residence of each party and his length of residence in this state. If domestic violence and abuse, as defined in KRS 403.720, is alleged by either party, the party filing the petition shall certify the existence and status of any domestic violence protective orders. The party filing the petition and alleging the abuse may substitute the party's attorney's address as the address of the party and any minor children;
- (b) The date of the marriage and the place at which it was registered;
- (c) That the parties are separated and the date on which the parties separated;
- (d) The names, ages, Social Security numbers *provided in accordance with Section 1 of this Act*, and addresses of any living infant children of the marriage, and whether the wife is pregnant;
- (e) Any arrangements as to custody, visitation, and support of the children and the maintenance of a spouse; and
- (f) The relief sought.

(3) Either or both parties to the marriage may initiate the proceeding.

(4) If a proceeding is commenced by one of the parties, the other party must be served in the manner provided by the Rules of

Civil Procedure and may file a verified response.

(5) Previously existing defenses to divorce and legal separation, including but not limited to condonation, connivance, collusion, recrimination, insanity, and lapse of time, are abolished.

(6) The court may join additional parties proper for the exercise of its authority to implement this chapter.

(7) When the wife is pregnant at the time the petition is filed, the court may continue the case until the pregnancy is terminated.

Section 3. KRS 403.160 is amended to read as follows:

(1) In a proceeding for dissolution of marriage or for legal separation, or in a proceeding for disposition of property or for maintenance or support following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse, either party may move for temporary maintenance. The motion shall be accompanied by an affidavit setting forth the factual basis for the motion and the amounts requested.

(2) (a) In a proceeding for dissolution of marriage, legal separation, or child support, either party, with notice to the opposing party, may move for temporary child support. The motion shall be accompanied by an affidavit setting forth the number of children of the marriage and the information required to calculate the combined adjusted parental gross income set forth in KRS 403.212(2)(g), and the Social Security numbers***, provided in accordance with Section 1 of this Act,*** of all parties subject to the motion. The court shall, within fourteen (14) days from the filing of said motion, order an amount of temporary child support based upon the child support guidelines as provided by law, and the ordered child support shall be retroactive to the date of the filing of the motion unless otherwise ordered by the court.

(b) Upon a showing of good cause, either party may move the court to enter an order for temporary child support without written or oral notice to the adverse party. After reviewing the affidavit required by paragraph (a) of this subsection, the court may issue a temporary child support order based upon the child support guidelines. The order shall provide that the order becomes effective seven (7) days following service of the order and movant's affidavit upon the adverse party unless the adverse party, within the seven (7) day period, files a motion for a hearing before the court. The motion for hearing shall be accompanied by the affidavit required by paragraph (a) of this subsection. Pending the hearing, the adverse party shall pay child support in an amount based upon the guidelines and the adverse party's affidavit. The child support order entered following the hearing shall be retroactive to the date of the filing of the motion for temporary support unless otherwise ordered by the court.

(3) As part of a motion for temporary maintenance or support or by independent motion accompanied by affidavit, either party may request the court to issue a temporary injunction or restraining order pursuant to the Rules of Civil Procedure.

(4) If the court or agent of the court is made aware that there is reasonable evidence of domestic violence or child abuse, the court shall determine whether disclosure to any other person of the information could be harmful to the parent or child, and if the court determines that disclosure to any person could be harmful, the court and its agents shall not make the disclosure.

(5) On the basis of the showing made and in conformity with KRS 403.200, the court may issue a temporary injunction or restraining order and an order for temporary maintenance in amounts and on terms just and proper in the circumstances.

(6) A temporary order or temporary injunction:

(a) Does not prejudice the rights of the parties or the child which are to be adjudicated at subsequent hearings in the proceeding;

(b) May be revoked or modified before final decree on a showing of the facts necessary to revocation or modification under the circumstances; and

(c) Terminates when the final decree is entered or when the petition for dissolution or legal separation is voluntarily dismissed.

Section 4. KRS 403.211 is amended to read as follows:

(1) An action to establish or enforce child support may be initiated by the parent, custodian, or agency substantially contributing to the support of the child. The action may be brought in the county in which the child resides or where the defendant resides.

(2) At the time of initial establishment of a child support order, whether temporary or permanent, or in any proceeding to modify a support order, the child support guidelines in KRS 403.212 shall serve as a rebuttable presumption for the establishment or modification of the amount of child support. Courts may deviate from the guidelines where their application would be unjust or inappropriate. Any deviation shall be accompanied by a written finding or specific finding on the record by the court, specifying the reason for the deviation.

(3) A written finding or specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case shall be sufficient to rebut the presumption and allow for an appropriate adjustment of the guideline award if based upon one (1) or more of the following criteria:

(a) A child's extraordinary medical or dental needs;

(b) A child's extraordinary educational, job training, or special needs;

(c) Either parent's own extraordinary needs, such as medical expenses;

(d) The independent financial resources, if any, of the child or children;

(e) Combined monthly adjusted parental gross income in excess of the Kentucky child support guidelines;

(f) The parents of the child, having demonstrated knowledge of the amount of child support established by the Kentucky child support guidelines, have agreed to child support different from the guideline amount. However, no such agreement shall be the basis of any deviation if public assistance is being paid on behalf of a child under the provisions of Part D of Title IV of the Federal Social Security Act; and

(g) Any similar factor of an extraordinary nature specifically identified by the court which would make application of the guidelines inappropriate.

(4) "Extraordinary" as used in this section shall be determined by the court in its discretion.

(5) When a party has defaulted or the court is otherwise presented with insufficient evidence to determine gross income, the court shall order child support based upon the needs of the child or the previous standard of living of the child, whichever is greater. An order entered by default or due to insufficient evidence to determine gross income may be modified upward and arrearages awarded from the date of the original order if evidence of gross income is presented within two (2) years which would have established a higher amount of child support pursuant to the child support guidelines set forth in KRS 403.212.

(6) The court shall allocate between the parents, in proportion to their combined monthly adjusted parental gross income, reasonable and necessary child care costs incurred due to employment, job search, or education leading to employment, in addition to the amount ordered under the child support guidelines.

(7) (a) If health care insurance coverage is reasonable and available at the time the request for coverage is made, the court shall allocate between the parents, in proportion to their combined monthly adjusted parental gross income, the cost of health care insurance coverage for the child, in addition to the support ordered under the child support guidelines.

(b) A parent, who has one hundred percent (100%) of the combined monthly adjusted parental gross income, shall be entitled to a reduction in gross income of the entire amount of premiums incurred and paid.

(c) The court shall order the cost of health care of the child to be paid by either or both parents of the child regardless of who has physical custody. The court order shall include:

1. A judicial directive designating which parent shall have financial responsibility for providing health care for the dependent child, which shall include, but not be limited to, insurance coverage, payments of necessary health care deductibles or copayments; and

2. A statement providing that if the designated parent's health care coverage provides for covered services for dependent children beyond the age of majority, then any unmarried children up to twenty-five (25) years of age who are full-time students enrolled in and attending an accredited educational institution and who are primarily dependent on the insured parent for maintenance and support shall be covered.

(d) If health care insurance coverage is not reasonable and available at the time the request for the coverage is made, the court order shall provide for health care insurance coverage at the time it becomes reasonable and available.

(8) The cost of extraordinary medical expenses shall be allocated between the parties in proportion to their combined monthly adjusted parental gross incomes. "Extraordinary medical expenses" means uninsured expenses in excess of one hundred dollars ($100) per child per calendar year. "Extraordinary medical expenses" includes, but is not limited to, the costs that are reasonably necessary for medical, surgical, dental, orthodontal, optometric, nursing, and hospital services; for professional counseling or psychiatric therapy for diagnosed medical disorders; and for drugs and medical supplies, appliances, laboratory, diagnostic, and therapeutic services.

(9) The court order shall include the Social Security numbers***, provided in accordance with Section 1 of this Act,*** of all parties subject to a support order.

(10) In any case administered by the Cabinet for Families and Children, if the parent ordered to provide health care coverage is enrolled through an insurer but fails to enroll the child under family coverage, the other parent or the Cabinet for Families and Children may, upon application, enroll the child.

(11) In any case administered by the cabinet, information received or transmitted shall not be published or be open for public inspection, including reasonable evidence of domestic violence or child abuse if the disclosure of the information could be harmful to the custodial parent or the child of the parent. Necessary information and records may be furnished as specified by KRS 205.175.

(12) In the case in which a noncustodial parent provides health care coverage, and changes employment, and the new employer provides health care coverage, the Cabinet for Families and Children shall transfer notice of the provision for coverage for the child to the employer, which shall operate to enroll this child in the noncustodial parent's health plan, unless the noncustodial parent contests the notice as specified by KRS Chapter 13B.

(13) Notwithstanding any other provision of this section, any wage or income shall not be exempt from attachment or assignment for the payment of current child support or owed or to-be-owed child support.

(14) A payment of money received by a child as a result of a parental disability shall be credited against the child support obligation of the parent. A payment shall not be counted as income to either parent when calculating a child support obligation. An amount received in excess of the child support obligation shall be credited against a child support arrearage owed by the parent that accrued subsequent to the date of the parental disability, but shall not be applied to an arrearage that accrued prior to the date of disability. The date of disability shall be as determined by the paying agency.

Section 5. KRS 407.5311 is amended to read as follows:

(1) A petitioner seeking to establish or modify a support order or to determine parentage in a proceeding under KRS 407.5101 to 407.5902 must verify the petition. Unless otherwise ordered under KRS 407.5312, the petition or accompanying documents must provide, so far as known, the name, residential address, and Social Security numbers of the obligor and the obligee, and the name, sex, residential address, Social Security number, and date of birth of each child for whom support is sought***, with the obligor's, obligee's, and children's Social Security numbers provided in accordance with Section 1 of this Act***. The petition must be accompanied by a certified copy of any support order in effect. The petition may include any other information that may assist in locating or identifying the respondent.

(2) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

Section 6. KRS 407.5602 is amended to read as follows:

(1) A support order or income-withholding order of another state may be registered in this state by sending the following documents and information to the Cabinet for Families and Children or the appropriate tribunal within this state wherein the obligor resides, works, or owns property:

(a) A letter of transmittal to the tribunal requesting registration and enforcement;

(b) Two (2) copies, including one (1) certified copy, of all orders to be registered, including any modification of an order;

(c) A sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage;

(d) The name of the obligor and, if known;

1. The obligor's address and ***the obligor's*** Social Security number ***provided in accordance with Section 1 of this Act***;

2. The name and address of the obligor's employer and any other source of income of the obligor; and

3. A description and the location of property of the obligor in this state not exempt from execution; and

(e) The name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

(2) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one (1) copy of the documents and information, regardless of their form.

(3) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading shall specify the grounds for the remedy sought.

Calendar

HB 388, 406, 412, 413, 427, 418, 9, 430, and **63** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative R. Adams moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative R. Adams moved the adoption of the following **Legislative Citation No. 33**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the members and sponsors of the Explorer Post of the Grant County Sheriff's Department upon visiting the Chambers of the House of Representatives to serve as Pages during this day's activities of the 2004 Regular Session of the Kentucky General Assembly. Endorsed by the BSA and designed to provide young citizens between the ages of 14 and 20 with the opportunity to train with officers for potential careers in law enforcement, the members of the Grant County Sheriff's Department Explorer Post are taught discipline, how to operate in the chain of command, teamwork and leadership skills, along with being exposed to such law enforcement techniques as hostage negotiations, bomb searches, crash investigations and the use of firearms. Inasmuch as these stellar young citizens represent the law enforcement personnel of the future, the members of this august body are delighted to join Representative Royce Adams in applauding them for the hard work and effort they have put into this outstanding program and in extending best wishes for their continued success and good fortune. Done in Frankfort, Kentucky, this eleventh day of February, in the year two thousand and four.

Legislative Citation No. 33 was adopted without objection.

Representative Stacy moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Stacy moved the adoption of the following **Legislative Citation No. 34**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Kentucky Public Library Bookmobile Program upon celebrating its 50th Anniversary and welcomes the esteemed bookmobile librarians, public librarians, trustees and friends of the public libraries who have traveled from across the Commonwealth to commemorate this auspicious occasion with the honored members of the Kentucky General Assembly. This celebration represents an effort that was over a century in the making and which had its beginnings in such efforts as the Traveling Book Project, the Kentucky Federation of Women's Clubs' Traveling Library, Berea College's Bookwagon, the WPA's Packhorse Library and the Friends of Kentucky Libraries, all of which contributed to the 1954 passage of the Davis-Rayburn bill that marked the official beginning of the Kentucky Public Library Bookmobile Program. Dedicated to insuring that all Kentucky citizens have access to public library materials and services, Kentucky's Bookmobile Program has served to reach out and meet the literary and educational needs of all Kentucky citizens, including those isolated by distance, poverty, lack of education or transportation; those with disabilities; the very young or elderly; and, those in institutions such as schools, nursing homes, and correctional facilities. The members of this honorable body are delighted to join Representative John Will Stacy in paying tribute to those legions of good and generous citizens who have contributed to the existence and success of the Kentucky Bookmobile Program. Done in Frankfort, Kentucky, this eleventh day of February, in the year two thousand and four.

Legislative Citation No. 34 was adopted without objection.

Senate Message

Announcing passage: **SB 18** and **70** (2:10 p.m.)

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 63, 388, 412, 418, HJR 43, HB 36, HB 309, 372,** and **389** have been posted for passage in the Regular Orders of the Day for February 12, 2004.

The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **HB 413**

Orders of the Day

HB 260, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HB 260**. Agreed.

Representative Burch moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 260**. Agreed.

Representative Burch moved that **HB 260**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See February 11, 2004, roll call on **HB 260** - Appendix.)

HB 260, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 260**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 106, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Graham moved the adoption of the Committee Substitute to **HB 106**. Agreed.

Representative Graham moved that **HB 106**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See February 11, 2004, roll call on **HB 106** - Appendix.)

HB 106, by way of Committee Substitute, was passed and the title agreed to.

Representative Graham moved that the vote by which **HB 106**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 289 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 289** be passed.

On the roll call the vote was: **Yeas 82, Nays 14**. (See February 11, 2004, roll call on **HB 289** - Appendix.)

HB 289 was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 289** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 321, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Graham moved the adoption of the Committee Substitute to **HB 321**. Agreed.

Representative Graham moved that **HB 321**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See February 11, 2004, roll call on **HB 321** - Appendix.)

HB 321, by way of Committee Substitute, was passed and the title agreed to.

Representative Graham moved that the vote by which **HB 321**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 40 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Buckingham moved that **HJR 40** be adopted.

On the roll call the vote was: **Yeas 92, Nays 0**. (See February 11, 2004, roll call on **HJR 40** - Appendix.)

HJR 40 was adopted.

Representative Buckingham moved that the vote by which **HJR 40** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 46 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **HJR 46** be adopted.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 11, 2004, roll call on **HJR 46** - Appendix.)

HJR 46 was adopted.

Representative Gray moved that the vote by which **HJR 46** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 183, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Buckingham moved the adoption of the Committee Substitute to **HB 183**. Agreed.

Representative Buckingham moved that **HB 183**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 1**. (See February 11, 2004, roll call on **HB 183** - Appendix.)

HB 183, by way of Committee Substitute, was passed and the title agreed to.

Representative Buckingham moved that the vote by which **HB 183**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 98, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved the adoption of Committee Amendment No. 1 to **HJR 98**. Agreed.

Representative Gooch moved that **HJR 98**, as amended, be adopted.

On the roll call the vote was: **Yeas 90, Nays 1**. (See February 11, 2004, roll call on **HJR 98** - Appendix.)

HJR 98, as amended, was adopted.

Representative Gooch moved that the vote by which **HJR 98**, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 54 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ballard moved that **HJR 54** be adopted.

On the roll call the vote was: **Yeas 93, Nays 0**. (See February 11, 2004, roll call on **HJR 54** - Appendix.)

HJR 54 was adopted.

Representative Ballard moved that the vote by which **HJR 54** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 82 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HJR 82** be adopted.

On the roll call the vote was: **Yeas 91, Nays 0**. (See February 11, 2004, roll call on **HJR 82** - Appendix.)

HJR 82 was adopted.

Representative Moberly moved that the vote by which **HJR 82** was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Ford moved the adoption of the following **Legislative Citation No. 35**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Bailee Sue Allen on the occasion of her 2nd Birthday. This entire membership of this august body is delighted to join with Representative Danny Ford in expressing warmest birthday greetings to his cherished granddaughter, Bailee Sue Allen, as her devoted family celebrates her birthday and in extending warmest wishes that she may certainly enjoy many wonderful years of happiness and good fortune. Done in Frankfort, Kentucky, this eleventh day of February, in the year two thousand and four.

Legislative Citation No. 35 was adopted without objection.

Representative Hoffman moved that the rules be suspended to act on a Resolution. Agreed.

Representative Hoffman moved the adoption of the following **HR 141**:

HR 141, A RESOLUTION adjourning the House of Representatives in loving memory and honor of William Carrick James.

With deepest respect and admiration, we pay homage and tribute to William Carrick James, and we pause in silent reverence for his soul.

WHEREAS, William Carrick James was born on July 2, 1915, a native of Scott County, Kentucky, and he traversed these earthly bounds on January 11, 2004; and

WHEREAS, William Carrick James was the loving son of the late Roscoe G. and Mollie Warring James; he was the devoted husband of Ruth Towles James, who preceded him in passing; and he was the proud uncle of Ann Thomas Kenley, Geraldine Summary, Kathleen King, Mary Janice Towles, and Thomas Towles; and

WHEREAS, William Carrick James served his country with pride and distinction in the United States Army as a Staff Sergeant in the European Theater during World War II; and

WHEREAS, William Carrick James was a banker by profession; he began his career as a bookkeeper and teller with the Georgetown National Bank; after World War II, he returned to the Georgetown National Bank, where he served in several positions, including president; in 1963, he accepted the position of Executive Vice President and Trust Officer at the Farmers Bank and Trust Company, where he served in this capacity for 23 years; and

WHEREAS, William Carrick James was an esteemed member of the Scott County community; he was a devout member of the Georgetown Methodist Church, where he served as steward and as treasurer, and where he was also a member of the Seed Faith Sunday School Class; he was past president of the Georgetown Kiwanis Club, and a member of Gideon's International, the Salvation Army, and the American Heart Association; he was also a member of Mt. Vernon Lodge No. 14F. & A.M. and the Oleika Temple Shrine; and

WHEREAS, the passing of William Carrick James has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of William Carrick James, and extends to his family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of William Carrick James.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Ms. Ann Thomas Kenley, 414 Cheyenne Trail, Georgetown, Kentucky 40324.

There being no objection, **HR 141** was adopted.

Representative Adkins moved that the rules be suspended for introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 490, by Representatives Wayne and Napier: AN ACT relating to distributed and environmentally sustainable generation of electricity.

HB 491, by Representative Belcher: AN ACT relating to income tax withholding and declaring an emergency.

HB 492, by Representative Callahan: AN ACT relating to trauma care.

HJR 142, by Representatives Belcher and Weaver: A JOINT RESOLUTION designating the Millersburg Military Institute as "The Military School of Kentucky."

HJR 143, by Representative Sims: A JOINT RESOLUTION designating the Lincoln Jamboree as a Kentucky Country Music Landmark.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Local Government: **HB 458, 457, 438, 53**

The Clerk announced that the following Bills have been withdrawn from posting for Committee consideration:

Local Government: **HB 30, 61**

Floor Amendments

Floor Amendment No. 8 to the Committee Substitute to **HB 372**, by Representative B. Smith:

HB 372, On page 5, line 4, after "***coverage to***" by inserting "***small employers, associations, or***"; and

On page 5, line 4, after "***shall***" by inserting "***,upon request,***"; and

On page 5, line 5, by deleting "***such employer-organized associations***" and inserting in lieu thereof "***any such small employer, association, or employer-organized association***"; and

On page 5, line 6, by deleting "***all designated***" and inserting in lieu thereof "***any***"; and

On page 5, line 7, after "***include***" by inserting "***coverage for diabetes as provided in KRS 304.17A-148 and***"; and

On page 5, line 9, by deleting "***limited***" and inserting in lieu thereof "***modified***"; and

On page 6, lines 3 and 26, and on page 7 line 23, after "***request.***" by adding "***However, nothing in this section shall be construed to require the insurer to deliver confidential network pricing information.***"; and

On page 6, line 18, by deleting "***information requested***" and inserting in lieu thereof "***the information relating to its health benefit plan that has been requested***"; and

On page 7, line 15, by deleting "***information requested***" and inserting in lieu thereof "***the information relating to its health benefit plan that has been requested***"; and

On page 8, line 15, after "***small group,***" by inserting "***association, employer-organized association,***"; and

On page 10, line 11, by deleting "***enrolled or***"; and

On page 10, line 13, after "***plan***" by inserting "***and the individual has voluntarily waived the association group coverage pursuant to this chapter***"; and

On page 11, after line 18, by inserting:

"Section 9. This Act may be cited as the Small Business Health Insurance Relief Act of 2004.".

Floor Amendment No. 2 to the Committee Substitute to **HB 369**, by Representative Damron:

HB 369, On page 1, line 12, after "***shall***" by deleting "***approve or deny the request for***" and insert "***issue a***"; in lieu thereof; and

On page 1, line 13 by deleting all bold, underlined italicized text after "***submission***" on that line through to the end of line 16; and

On page 1, line 17, by deleting "***disposal system required will involve a surface discharge***"

On page 1, line 20, by inserting after "***inspection***" "***, unless cause for delay can be shown for inclement weather***"; and

On page 3, line 7, by deleting "***regardless of weather conditions***" and inserting "***unless cause for delay can be shown for inclement weather***" in lieu thereof; and

On page 3, line 25, by inserting after "***department***" "***, unless cause for delay can be shown for inclement weather***"; and

On page 5, line 7, by inserting after "***evaluation,***" "***unless cause for delay can be shown for inclement weather,***"; and

On page 5, line 15, by inserting after "***days,***" "***unless cause for delay can be shown for inclement weather,***".

Floor Amendment No. 4 to Committee Substitute to **HB 172**, by Representative Belcher:

HB 172, On page 2, line 7, delete line 7 in its entirety and insert in lieu thereof the following: "*2. Renewal Fee: $8 ($0 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).*"; and

On page 2, line 20, delete line 20 in its entirety and insert in lieu thereof the following: "*2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).*"; and

On page 5, line 27, after the period "*.*" insert the following: "*The twenty-five dollar ($25) fee required under this subsection shall be divided between the cabinet and the county clerk of the county where the applicant is applying for the license plate with the cabinet receiving fifteen dollars ($15) and the county clerk receiving ten dollars ($10).*"; and

On page 6, lines 3 through 10, delete lines 3 through 10 in their entirety and insert in lieu thereof the following:

"*(1) The SF portion of the fee required under Section 1 of this Act shall include the fee to reflectorize all license plates under KRS 186.240. All EF fees required under Section 1 of this Act shall be collected at the time of an initial or renewal application by the county clerk who shall forward the EF fee to the cabinet. The cabinet shall remit EF fees to the group or organization identified in Section 1 of this Act on an annual basis. The cabinet may retain any investment income earned from holding EF fees designated to be remitted under this subsection to offset administrative costs incurred by the cabinet in the administration of EF fees.*"; and

On page 6, line 22, after the period "*.*" insert the following: "*The twenty-five dollar ($25) initial fee and twelve dollar ($12) renewal fee received by the Transportation Cabinet under this subsection shall include an applicant's registration fee required under KRS 186.050.*"; and

On page 8, line 20, after the word "*voluntary*" insert the following new language: "*ten dollar ($10)*"; and

On page 8, line 21, after the word "*shall*" delete the remainder of line 21 in its entirety, and insert the following: "*forward to the cabinet. The cabinet shall, on an annual basis, remit the voluntary contributions to the appropriate group identified,*"; and

On page 8, line 22, after the word "*The*" insert the following new language: "*cabinet may retain any investment income earned from holding voluntary contributions designated to be remitted under this subsection to offset administrative costs incurred by the cabinet in the administration of the contributions. Any group or*"; and

On page 8, lines 23 and 24, delete lines 23 and 24 in their entirety; and

On page 9, line 2, after the word "*a* and before the word "*donation*" insert "*ten dollar ($10)*"; and

On page 14, line 16, after the word "*shall*" delete the remainder of line 16 in its entirety and insert in lieu thereof: "*expire*".

Floor Amendment No. 5 to the Committee Substitute to **HB 172**, by Representative Belcher:

HB 172, On page 2, line 7, delete line 7 in its entirety and insert in lieu thereof the following: "*2. Renewal Fee: $8 ($0 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).*"; and

On page 2, line 20, delete line 20 in its entirety and insert in lieu thereof the following: "*2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).*".

Floor Amendment No. 6 to the Committee Substitute to **HB 172**, by Representative Belcher:

HB 172, On page 6, lines 3 through 10, delete lines 3 through 10 in their entirety and insert in lieu thereof the following:

"*(1) The SF portion of the fee required under Section 1 of this Act shall include the fee to reflectorize all license plates under KRS 186.240. All EF fees required under Section 1 of this Act shall be collected at the time of an initial or renewal application by the county clerk who shall forward the EF fee to the cabinet. The cabinet shall remit EF fees to the group or organization identified in Section 1 of this Act on an annual basis. The cabinet may retain any investment income earned from holding EF fees designated to be remitted under this subsection to offset administrative costs incurred by the cabinet in the administration of EF fees.*"; and

On page 8, line 21, after the word "*shall*" delete the remainder of line 21 in its entirety, and insert the following: "*forward to the cabinet. The cabinet shall, on an annual basis, remit the voluntary contributions to the appropriate group identified,*"; and

On page 8, line 22, after the word "*The*" insert the following new language: "*cabinet may retain any investment income earned from holding voluntary contributions designated to be remitted under this subsection to offset administrative costs incurred by the cabinet in the administration of the contributions. Any group or*"; and

On page 8, lines 23 and 24, delete lines 23 and 24 in their entirety; and

On page 14, line 16, after the word "*shall*" delete the remainder of line 16 in its entirety and insert in lieu thereof: "*expire*".

Floor Amendment No. 7 to the Committee Substitute to **HB 172**, by Representative Belcher:

HB 172, On page 6, line 10, after the period "." insert the following: "***The clerk may retain all EF fees collected under Section 1 of this Act in a single account during the time period the clerk is holding the funds. The clerk shall ensure that all funds collected for each particular group are properly tracked and identified for disbursement annually. The clerk shall not be required to maintain a separate account for each group receiving EF funds.***"; and

On page 8, line 22, after the period "." insert the following: "***The clerk may retain all voluntary contributions collected under Section 1 of this Act in a single account during the time period the clerk is holding the contributions. The clerk shall ensure that all contributions collected for each particular group are properly tracked and identified for disbursement annually. The clerk shall not be required to maintain a separate account for each group receiving voluntary contributions.***".

Floor Amendment No. 1 to the Committee Substitute to **HB 357**, by Representative Vincent:

HB 357, On page 2, lines 25 through 27, delete lines 25 through 27 in their entirety and insert in lieu thereof:

"***(6) In addition to any other penalty allowed by law, a court may declare the defendant ineligible to operate a motor vehicle for a period of up to sixty (60) days where the defendant is being sentenced for a conviction of abandoning a motor vehicle and failing to pay:***

(a) The fine required under subsection (18) of Section 5 of this Act and any associated court costs; and

(b) The towing, recovery, and storage charges associated with towing, recovering, or storing the abandoned vehicle."; and

On page 3, lines 1 through 15, delete lines 1 through 15 in their entirety; and

On page 13, between lines 9 and 10, insert a new Section 6 to read as follows:

"Section 6. KRS 186.570 is amended to read as follows:

(1) The cabinet or its agent designated in writing for that purpose may deny any person an operator's license or may suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, subject to a hearing and with or without receiving a record of conviction of that person of a crime, if the cabinet has reason to believe that:

(a) That person has committed any offenses for the conviction of which mandatory revocation of a license is provided by KRS 186.560.

(b) That person has, by reckless or unlawful operation of a motor vehicle, caused, or contributed to an accident resulting in death or injury or serious property damage.

(c) That person has a mental or physical disability that makes it unsafe for him to drive upon the highways. The Transportation Cabinet shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, establish a medical review board to provide technical assistance in the review of the driving ability of these persons. The board shall consist of licensed medical and rehabilitation specialists.

(d) That person is an habitually reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws.

(e) That person has been issued a license without making proper application for it, as provided in KRS 186.412 and administrative regulations promulgated pursuant to KRS Chapter 13A.

(f) That person has presented false or misleading information as to the person's residency, citizenship, religious convictions, or immigration status.

(g) A person required by KRS 186.480 to take an examination has been issued a license without first having passed the examination.

(h) That person has been convicted of assault and battery resulting from the operation of a motor vehicle.

(i) That person has failed to appear pursuant to a citation or summons issued by a law enforcement officer of this Commonwealth or any other jurisdiction.

(j) That person has failed to appear pursuant to an order by the court to produce proof of security required by KRS 304.39-010 and a receipt showing that a premium for a minimum policy period of six (6) months has been paid.

(2) The cabinet shall deny any person a license or shall suspend the license of an operator of a motor vehicle upon receiving written notification from the Cabinet for Families and Children that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment or failure, after receiving appropriate notice, to comply with a subpoena or warrant relating to paternity or child support proceedings, as provided by 42 U.S.C. secs. 651 et seq.; except that any child support arrearage which exists prior to January 1, 1994, shall not be included in the calculation to determine whether the license of an operator of a motor vehicle shall be denied or suspended. The denial or suspension shall continue until the arrearage has been eliminated, payments on the child support arrearage are being made in accordance with a court or administrative order, or the person complies with the subpoena or warrant relating to paternity or child support. Before the license may be reinstated, proof of elimination of the child support

arrearage or proof of compliance with the subpoena or warrant relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16) from the court where the action is pending or the Cabinet for Families and Children shall be received by the Transportation Cabinet as prescribed by administrative regulations promulgated by the Cabinet for Families and Children and the Transportation Cabinet.

(3) The cabinet or its agent designated in writing for that purpose shall deny any person an operator's license or shall suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, where the person has been declared ineligible to operate a motor vehicle under KRS 532.356 for the duration of the ineligibility, upon notification of the court's judgment.

(4) ***The cabinet or its agent designated in writing for that purpose shall deny any person an operator's license or shall suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, where the person has been declared ineligible to operate a motor vehicle under subsection (6) of Section 1 of this Act for the duration of the ineligibility, upon notification of the court's judgment.***

(5) The cabinet or its agent designated in writing for that purpose shall provide any person subject to the suspension, revocation, or withdrawal of their driving privileges, under provisions of this section, an informal hearing. Upon determining that the action is warranted, the cabinet shall notify the person in writing by mailing the notice to the person by first-class mail to the last known address of the person. The hearing shall be automatically waived if not requested within twenty (20) days after the cabinet mails the notice. The hearing shall be scheduled as early as practical within twenty (20) days after receipt of the request at a time and place designated by the cabinet. An aggrieved party may appeal a decision rendered as a result of an informal hearing, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(6)[~~(5)~~] (a) The cabinet may suspend the operator's license of any resident upon receiving notice of the conviction of that person in another state of an offense there which, if committed in this state, would be grounds for the suspension or revocation of an operator's license. The cabinet shall not suspend an operator's license under this paragraph if:

1. The conviction causing the suspension or revocation is more than five (5) years old;
2. The conviction is for a traffic offense other than a felony traffic offense or a habitual violator offense; and
3. The license holder complies with the provisions of KRS 186.442.

(b) If, at the time of application for an initial Kentucky operator's license, a person's license is suspended or revoked in another state for a conviction that is less than five (5) years old, the cabinet shall deny the person a license until the person resolves the matter in the other state and complies with the provisions of this chapter.

(c) The cabinet may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws, forward a notice of that person's conviction to the proper officer in the state of which the convicted person is a resident.

(d) This subsection shall not apply to a commercial driver's license.

(7)[~~(6)~~] The Transportation Cabinet is forbidden from suspending or revoking an operator's license or assessing points or any other form of penalty against the license holder for speeding violations or speeding convictions from other states. This subsection shall apply only to speeding violations. This section shall not apply to a commercial driver's license.

(8)[~~(7)~~] Each operator's license which has been canceled, suspended, or revoked shall be surrendered to and retained by the cabinet. At the end of the period of cancellation, suspension, or revocation, the license may be returned to the licensee after he has complied with all requirements for the issuance or reinstatement of his driving privilege.

(9)[~~(8)~~] Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder's driving privilege has been suspended or denied pursuant to subsection (2) of this section."; and

On page 13, line 10, renumber Section 6 as Section 7.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 18, Representative Belcher

HB 185, Representative Nesler

HB 260, Representative Marzian

HB 277, Representative J. Adams

HB 330, Representatives P. Clark and Marzian

HB 340, Representative Brinkman

HB 371, Representatives P. Clark and Crenshaw

HB 372, Representative J. Adams

HB 404, Representatives Rand, Nunn, P. Clark, Montell, and Crimm

HB 413, Representative Palumbo

HB 435, Representative Nesler

HB 436, Representative Nesler

HB 457, Representative Meeks

HB 470, Representative Thomas

HB 474, Representative Marzian

HB 475, Representative Hall

HB 483, Representatives Damron, Belcher, Stein, Nunn, A. Arnold, P. Clark, and J. Adams

HB 488, Representatives Crimm, Miller, Stewart, Pullin, Jenkins, Rand, Edmonds, Ballard, Geveden, J. Adams, Vincent and Collins

HR 139, Representatives Miller, Marzian, Geveden, Gray, Webb, Nesler, Simpson, Edmonds, A. Arnold, Westrom, Nelson, J. Adams, Graham, Hall, Riner, Cornett, Marcotte, P. Clark, Baugh, Dw. Butler, Ford, Upchurch, Reinhardt, Stewart, Jenkins, Couch, Turner, Rader, Harper, Mobley, Crall, Farmer, Cherry, Callahan, Yonts, Siler, Horlander, Weaver, Belcher, Pullin, Draud, Burch, Collins, Buckingham, Vincent, Adkins, Comer, Ballard, Bruce, Meeks, Moberly, J. Lee, L. Clark, B. Smith, Rand, R. Adams, Wayne, Pasley, Hoffman, Coleman, S. Lee, J. Arnold, De. Butler, Damron, and A. Smith

The following member filed a request to have his name withdrawn as a co-sponsor of a Bill:

HB 349, Representative Meeks

Announcements

The following meetings were announced:

Budget Review Subcommittee on Justice and Judiciary: Room 131, 30 minutes upon adjournment

Majority Caucus: Speaker's Office, upon adjournment

Committee on Elections, Constitutional Amendments, and Intergovernmental Relations: Thursday, February 12, 2004, 10:00 a.m.

Committee on Agriculture and Small Business: 12:00 Noon, Thursday, February 12, 2004

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 2:00 p.m., Thursday, February 12, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 2:00 p.m., Thursday, February 12, 2004, was adopted by voice vote.

THURSDAY, FEBRUARY 12, 2004

TWENTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Brother Phillip N. Cropper, Pine Valley Christian Church, Tollesboro, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

Richard Summers, First Baptist Church, Frankfort, Kentucky, sang the National Anthem.

The roll was called. All members present except Representatives Bather, Coleman, and Wilkey.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 11, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 491**

Health and Welfare: **HB 492**

Local Government: **SB 70**

Seniors, Military Affairs, and Public Safety: **HJR 142**

Tourism Development and Energy: **HB 490, HJR 143**

Transportation: **SB 18**

Report of Committees

The Committee on Elections, Constitutional Amendments, and Intergovernmental Affairs reported **HB 428** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 428, AN ACT relating to federal candidates and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.365 is amended to read as follows:

(1) Certificates of nomination issued by the State Board of Elections shall be filed by that board with the Secretary of State immediately. The certificates issued by the county board of elections shall be filed by that board with the county clerk immediately.

(2) Petitions of nomination for candidates for city offices except as provided in KRS 83A.047, for candidates for members of boards of education, and for candidates for supervisors of soil and water conservation districts shall be filed with the county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the holding of regular elections for the offices sought.

(3) Candidates for an office, the nomination to which is to be made by a convention pursuant to KRS 118.325(1) and (2), except for the office of electors of President and Vice President of the United States, shall file the statements required by KRS 118.325(3), with the official designated in KRS 118.165 with whom notification and declaration are filed for the office, not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the second Tuesday in August preceding the regular election for the office sought.

(4) Certificates of nomination made by the governing authority of a political party within the meaning of KRS 118.015 or a political organization not constituting a political party within the meaning of KRS 118.015 but whose candidate received two percent (2%) of the vote of the state at the last preceding election for presidential electors to fill vacancies in office, as

provided in KRS 118.115 and 118.325, shall be filed as required with the Secretary of State or county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the election of the person in nomination.

(5) Except as otherwise provided in this section, petitions of nomination shall be filed as required with the Secretary of State or county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the holding of general elections for the offices sought. Certificates of nomination shall be filed with the Secretary of State or county clerk, as required by law, not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the holding of general elections for the offices sought. The filing of petitions of nomination for independent candidates***, except for candidates for federal office,*** shall not be accepted by the Secretary of State or the county clerk if the candidate has not filed a statement-of-candidacy form as required by KRS 118.367.

(6) Petitions and certificates of nomination for electors of President and Vice President of the United States shall be filed with the Secretary of State not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which there is an election for President and Vice President of the United States and not later than the first Tuesday in September preceding the date fixed by law for the election of the electors.

(7) Petitions for recall elections or elections on public questions shall be filed as required with the county clerk not later than the second Tuesday in August preceding the day fixed by law for holding a general election.

(8) Petitions of any kind named in this section, statements, and certificates of nomination shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.

Section 2. KRS 118.367 is amended to read as follows:

(1) An independent candidate required to file nomination papers pursuant to KRS 118.365(5) shall be required to file a statement-of-candidacy form with the same office at which nomination papers are filed. ***Candidates for federal office shall not be required to file a statement-of-candidacy form.*** The statement-of-candidacy form shall be filed not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than April 1 preceding the day fixed by law for holding of general elections for the offices sought. If the office in which the statement-of-candidacy form is to be filed is closed on April 1, the form may be filed on the next business day. The statement-of-candidacy form shall be filed no later than 4 p.m. local time when filed on the last day on which papers are permitted to be filed. No person shall file a statement-of-candidacy form for more than one (1) public office during an election cycle.

(2) The statement-of-candidacy form shall be prescribed by the State Board of Elections. The statement-of-candidacy form shall be signed by the candidate upon filing. No charge shall be assessed for the filing of a statement-of-candidacy form. The Secretary of State and county clerks shall examine the statement-of-candidacy form of each candidate who files the form to determine if there is an error. If an error has occurred, the candidate shall be notified by certified mail within twenty-four (24) hours.

Section 3. KRS 118.176 is amended to read as follows:

(1) A "bona fide" candidate means one who is seeking nomination in a primary or election in a general election according to law.

(2) The bona fides of any candidate seeking nomination or election in a primary or general election may be questioned by any qualified voter entitled to vote for such candidate or by an opposing candidate by summary proceedings consisting of a motion before the Circuit Court of the judicial circuit in which the candidate whose bona fides is questioned resides***, unless the candidate is seeking nomination or election as a candidate for President and Vice President of the United States, in which case the proceeding shall be brought in the Franklin Circuit Court***. An action regarding the bona fides of any candidate seeking nomination or election in a primary or general election may be commenced at any time prior to the general election. The motion shall be tried summarily and without delay. Proof may be heard orally, and upon motion of either party shall be officially reported. If the Circuit Judge of the circuit in which the proceeding is filed is disqualified or absent from the county or is himself a candidate, the proceeding may be presented to, heard and determined by the Circuit Judge of any adjoining judicial circuit.

(3) In any action or proceeding under this section the burden of proof as to the bona fides of a candidate shall be on the person challenging the bona fides of a candidate.

(4) If the court finds the candidate is not a bona fide candidate it must so order, and certify the fact to the board of elections, and the candidate's name shall be stricken from the written designation of election officers filed with the board of elections or the court may refuse recognition or relief in a mandatory or injunctive way. The order of the Circuit Court shall be entered on the order book of the court and shall be subject to a motion to set aside in the Court of Appeals. The motion shall be heard by the Court of Appeals or a judge thereof in the manner provided for dissolving or granting injunctions, except that the motion must be made before the court or judge within five (5) days after the entry of the order in the Circuit Court, and may be heard and tried upon the original papers, and the order of the Court of Appeals or judge thereof shall be final.

(5) No person shall approach the Circuit Judge for the purpose or view of influencing his decision on the motion pending before him or to be tried by him.

Section 4. Whereas these provisions relating to federal candidates apply to upcoming elections, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee on Health and Welfare reported **HB 376**, with Committee Substitute attached thereto, and **HB 456** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 376, AN ACT relating to the homelessness prevention pilot project.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Health Services, the Justice Cabinet, and the Cabinet for Families and Children, in consultation with any other state agency as appropriate, shall develop and implement a homelessness prevention pilot project that offers institutional discharge planning to persons exiting from state-operated or supervised institutions involving corrections, mental health, and foster care programs.

(2) The pilot project shall be jointly supported by each of the cabinets. One (1) office for the pilot project shall be located in a family resource center or Department for Community Based Services building in Jefferson County due to its urban population, and one (1) office shall be located in Clinton, Cumberland, McCreary, or Wayne County, due to its rural population. This test pilot project shall have the following components:

- *(a) The primary goal of the project shall be to prepare a limited number of persons in a foster home under supervision by the Cabinet for Families and Children, corrections facility under supervision by the Justice Cabinet, and mental health facility under supervision by the Cabinet for Health Services for return or reentry into the community, and to offer information about any necessary linkage of the person to needed community services and supports. Participation of the person being discharged from the foster home or facility shall be voluntary. At least six (6) months prior to discharge, one (1) of each five (5) persons discharged shall be offered the opportunity to participate in the pilot program, with a cap on persons served in each office determined by available funding and staffing requirements.*
- *(b) Within thirty (30) days following the effective date of this Act, the cabinets shall support each director with the collection of information on available employment, social, housing, medical, mental health, and other community services in the county. The information shall include but not be limited to the service area of each public and private provider of services, the capacity of each provider to render services to persons served by the pilot project, the fees of each provider, contact names and telephone numbers for each provider, and an emergency contact for each provider.*
- *(c) Within thirty (30) days following the effective date of this Act, the cabinets and directors shall begin a program of education for each of the cabinet and foster home and facility staff who will participate in the development of a discharge plan for eligible persons under this section.*
- *(d) Upon placement of a person into a foster home, corrections facility, or mental health facility specified in paragraph (a) of this subsection, the person designated as the homelessness prevention coordinator for each such foster home or facility shall maintain a file relating to the person's social, housing, medical, and mental health needs. This file shall be updated from time to time as appropriate and pursuant to an administrative regulation promulgated by the cabinet in accordance with KRS Chapter 13A that establishes standards for the discharge summary. All applicable privacy and confidentiality laws shall be followed.*
- *(e) Six (6) months prior to the release of a person from a foster home, corrections facility, or mental health facility, a discharge coordinator for each such facility shall contact the homelessness prevention director for Jefferson County or the homelessness prevention director for Clinton, Cumberland, McCreary, or Wayne County, as appropriate, about the pending release of the person.*
- *(f) The director shall assist the discharge coordinator with the development of a final comprehensive discharge plan that addresses the employment, health care, housing, and other needs of the person to be released, subject to the consent of the person and the funding and staffing capabilities of the director. The discharge plan shall contain but not be limited to the following:*
  - *1. Estimated discharge date from the foster home, corrections facility, or mental health facility;*
  - *2. Education background of the person to be released, including any classes completed or skills obtained by the person while in the foster home, corrections facility, or mental health facility;*
  - *3. Summary of medical needs;*
  - *4. Summary of any social or family background information;*
  - *5. Summary of previous attempts to arrange for post-release residence, employment, medical and mental health services, housing, and other community-based services for the person; and*

6. Summary of available funding and public programs that may reimburse any services obtained from a provider listed in the discharge plan. Every effort shall be made in the discharge plan to refer the person to a provider that has agreed to an arranged public or private funding arrangement.

No discharge plan shall be completed unless the written consent, consistent with state and federal privacy laws, to compile the information and prepare the plan has been given by the person being released who has volunteered to participate in the pilot program.

(g) Discharge may be made to appropriate housing, including but not limited to a twenty-four (24) month transitional program, supportive housing, or halfway house. Discharge to an emergency shelter is not appropriate to meet the housing needs of the person being discharged from foster care, corrections facility, or mental health facility.

(h) Discharge planning shall be individualized, comprehensive, and coordinated with community-based services. Each discharge plan shall create a continuous, coordinated, and seamless system that is designed to meet the needs of the person. Staff of the foster home or facility and staff of community-based services providers shall be involved in the planning. Each facility shall utilize, wherever possible, community-based services within the facility to establish familiarity of the person residing in the facility with the services.

(i) For persons who require follow-up treatment, appropriate treatment services shall be included in the discharge plan.

(j) Appropriate data about discharge placements and follow-up measures shall be collected and analyzed. The analysis shall be included in the interim and final reports of the pilot program specified in subsection (4) of this section.

(3) Each homelessness prevention director shall have regular meetings with appropriate state cabinet and agency staff to review the pilot project and make recommendations for the benefit of the program. Each director shall be assisted by a local advisory council composed of local providers of services and consumer advocates who are familiar with homelessness prevention issues. Priority for membership on the advisory council shall be given to existing resources and regional mental health and substance abuse advisory councils at the discretion of the director.

(4) Each cabinet shall collect data about the discharge plans, referrals, costs of services, and rate of recidivism related to the homelessness prevention program, and shall submit an annual report to the Governor and the Legislative Research Commission no later than October 1 that summarizes the data and contains recommendations for the improvement of the program. The annual report also shall be forwarded to the Kentucky Commission on Services and Supports for Individuals with Mental Retardation and Other Developmental Disabilities, Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses, and the Kentucky Housing Corporation Homelessness Policy Council.

The Committee Substitute to **HB 376** is as follows:

HB 376, AN ACT relating to the homelessness prevention pilot project.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Health Services, the Justice Cabinet, and the Cabinet for Families and Children, in consultation with any other state agency as appropriate, shall develop and implement a homelessness prevention pilot project that offers institutional discharge planning to persons exiting from state-operated or supervised institutions involving mental health and foster care programs, or being released from a correctional facility upon serving out their sentences.

(2) The primary goal of the project shall be to prepare a limited number of persons in a foster home under supervision by the Cabinet for Families and Children, corrections facility under supervision by the Justice Cabinet, and mental health facility under supervision by the Cabinet for Health Services for return or reentry into the community, and to offer information about any necessary linkage of the person to needed community services and supports.

(a) The pilot project shall be jointly supported by each of the cabinets. One (1) office for the pilot project shall be located in a family resource center or Department for Community Based Services building in Jefferson County due to its urban population, and one (1) office shall be located in Clinton, Cumberland, McCreary, or Wayne County, due to its rural population.

(b) Within thirty (30) days following the effective date of this Act, the cabinets shall supply each pilot project director with the collection of information on available employment, social, housing, educational, medical, mental health, and other community services in the county. The information shall include but not be limited to the service area of each public and private provider of services, the capacity of each provider to render services to persons served by the pilot project, the fees of each provider, contact names and telephone numbers for each provider, and an emergency contact for each provider.

(c) Within thirty (30) days following the effective date of this Act, the cabinets and directors shall begin a program of education for each of the cabinet and foster home and facility staff who will participate in the development of

a discharge plan for volunteer participants under this section.

(3) The pilot project shall operate on a voluntary basis. One (1) of each five (5) persons eligible for discharge or completing their sentence shall be offered the opportunity to participate in the pilot program. This offer shall be made at least six (6) months prior to discharge. There shall be a cap on the number of persons served in each office, to be determined by available funding and staffing requirements.

(a) The staff member designated as the homelessness prevention coordinator for each foster home or facility shall maintain a file for each volunteer participant in the foster home or facility, relating to the participant's employment, social, housing, educational, medical, and mental health needs. This file shall be updated from time to time as appropriate and pursuant to an administrative regulation promulgated by the cabinet in accordance with KRS Chapter 13A that establishes standards for the discharge summary. All applicable privacy and confidentiality laws shall be followed in assembling and maintaining this file.

(b) Six (6) months prior to the expected date of discharge, the discharge coordinator for each such facility shall contact the homelessness prevention director for Jefferson County or the homelessness prevention director for Clinton, Cumberland, McCreary, or Wayne County, as appropriate, about the pending release of the volunteer participant who is eligible for discharge from a foster home or mental health facility or who will have served out his or her sentence in a corrections facility.

(c) The director shall assist the discharge coordinator with the development of a final comprehensive discharge plan that addresses the employment, health care, educational, housing, and other needs of the person to be released, subject to the consent of the person and the funding and staffing capabilities of the director. The discharge plan shall contain but not be limited to the following:

1. Estimated discharge date from the foster home, corrections facility, or mental health facility;

2. Educational background of the person to be released, including any classes completed or skills obtained by the person while in the foster home, corrections facility, or mental health facility;

3. Summary of medical and mental health needs;

4. Summary of any relevant social or family background information;

5. Summary of previous attempts to arrange for post-release residence, employment, medical and mental health services, housing, education, and other community-based services for the person; and

6. Summary of available funding and public programs that may reimburse any services obtained from a provider listed in the discharge plan. Every effort shall be made in the discharge plan to refer the person to a provider that has agreed to an arranged public or private funding arrangement.

No discharge plan shall be completed unless the written consent, consistent with state and federal privacy laws, to compile the information and prepare the plan has been given by the person eligible for release who has volunteered to participate in the pilot program.

(4) Discharge planning shall include but not be limited to:

(a) Availability of appropriate housing, including but not limited to a twenty-four (24) month transitional program, supportive housing, or halfway house. Planning discharge to an emergency shelter is not appropriate to meet the housing needs of the person being discharged from foster care, a corrections facility, or a mental health facility;

(b) Access to appropriate treatment services for participants who require follow-up treatment;

(c) Availability of appropriate employment opportunities, including assessment of vocational skills and job training; and

(d) Identification of appropriate opportunities to further education.

(5) Discharge planning shall be individualized, comprehensive, and coordinated with community-based services.

(a) Each discharge plan shall create a continuous, coordinated, and seamless system that is designed to meet the needs of the person.

(b) Staff of the foster home or facility and staff of community-based services providers shall be involved in the planning.

(c) Each facility shall utilize, wherever possible, community-based services within the facility to establish familiarity of the person residing in the facility with the community services.

(6) Appropriate data about discharge placements and follow-up measures shall be collected and analyzed. The analysis shall be included in the interim and final reports of the pilot program specified in subsection (8) of this section.

(7) Each homelessness prevention director shall have regular meetings with appropriate state cabinet and agency staff to review the pilot project and make recommendations for the benefit of the program. Each director shall be assisted by a local advisory council composed of local providers of services and consumer advocates who are familiar with homelessness prevention issues. Priority for membership on the advisory council shall be given to existing resources and regional mental health and substance abuse advisory councils at the discretion of the director.

(8) Each cabinet shall collect data about the discharge plans, referrals, costs of services, and rate of recidivism related to the homelessness prevention program, and shall submit an annual report to the Governor and the Legislative Research Commission no later than October 1 that summarizes the data and contains recommendations for the improvement of the program. The annual report also shall be forwarded to the Kentucky Commission on Services and Supports for Individuals with Mental Retardation and Other Developmental Disabilities, Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses, and the Kentucky Housing Corporation Homelessness Policy Council.

HB 456, AN ACT relating to medical licensure.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and KRS 311.990(4) to (6):

(1) "Board" means the State Board of Medical Licensure;

(2) "President" means the president of the State Board of Medical Licensure;

(3) "Secretary" means the secretary of the State Board of Medical Licensure;

(4) "Executive director" means the executive director of the State Board of Medical Licensure or any assistant executive directors appointed by the board;

(5) "General counsel" means the general counsel of the State Board of Medical Licensure or any assistant general counsel appointed by the board;

(6) "Regular license" means a license to practice medicine or osteopathy at any place in this state;

(7) "Limited license" means a license to practice medicine or osteopathy in a specific institution or locale to the extent indicated in the license;

(8) "Temporary permit" means a permit issued to a person who has applied for a regular license, and who appears from verifiable information in the application to the executive director to be qualified and eligible therefor;

(9) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing the physician to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days;

(10) Except as provided in subsection (11) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities;

(11) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the domestic administration of family remedies, the rendering of first aid or medical assistance in an emergency in the absence of a person licensed to practice medicine or osteopathy under the provisions of this chapter, the use of automatic external defibrillators in accordance with the provisions of KRS 311.665 to 311.669, the practice of podiatry as defined in KRS 311.380, the practice of a midlevel health care practitioner as defined in KRS 216.900, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the practice of physical therapy as defined in KRS 327.010, the performance of duties for which they have been trained by paramedics licensed under KRS Chapter 311A, first responders, or emergency medical technicians certified under Chapter 311A, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised, or represented as being for the treatment, correction, cure, or relief of any human ailment, disease, injury, infirmity, or condition, in regular mercantile establishments, or the practice of midwifery by women. KRS 311.530 to 311.620 shall not be construed as repealing the authority conferred on the Cabinet for Health Services by KRS Chapter 211 to provide for the instruction, examination, licensing, and registration of all midwives through county health officers;

(12) "Physician" means a doctor of medicine or a doctor of osteopathy;

(13) "Grievance" means any allegation in whatever form alleging misconduct by a physician;

(14) "Charge" means a specific allegation alleging a violation of a specified provision of this chapter;

(15) "Complaint" means a formal administrative pleading that sets forth charges against a physician and commences a formal disciplinary proceeding;

(16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including but not limited to crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation;

(17) "Telehealth" means the use of interactive audio, video, or other electronic media to deliver health care. It includes the use of electronic media for diagnosis, consultation, treatment, transfer of medical data, and medical education;

(18) "Order" means a direction of the board or its panels made or entered in writing that determines some point or directs some

step in the proceeding and is not included in the final order;

(19) "Agreed order" means a written document that includes but is not limited to stipulations of fact or stipulated conclusions of law that finally resolves a grievance, a complaint, or a show cause order issued informally without expectation of further formal proceedings in accordance with KRS 311.591(6);

(20) "Final order" means an order issued by the hearing panel that imposes one (1) or more disciplinary sanctions authorized by this chapter;

(21) "Letter of agreement" means a written document that informally resolves a grievance, a complaint, or a show cause order and is confidential in accordance with KRS 311.619;

(22) "Letter of concern" means an advisory letter to notify a physician that, although there is insufficient evidence to support disciplinary action, the board believes the physician should modify or eliminate certain practices and that the continuation of those practices may result in action against the physician's license;

(23) "Motion to revoke probation" means a pleading filed by the board alleging that the licensee has violated a term or condition of probation and that fixes a date and time for a revocation hearing;

(24) "Revocation hearing" means a hearing conducted in accordance with KRS Chapter 13B to determine whether the licensee has violated a term or condition of probation;

(25) "Chronic or persistent alcoholic" means an individual who is suffering from a medically diagnosable disease characterized by chronic, habitual, or periodic consumption of alcoholic beverages resulting in the interference with the individual's social or economic functions in the community or the loss of powers of self-control regarding the use of alcoholic beverages;

(26) "Addicted to a controlled substance" means an individual who is suffering from a medically diagnosable disease characterized by chronic, habitual, or periodic use of any narcotic drug or controlled substance resulting in the interference with the individual's social or economic functions in the community or the loss of powers of self-control regarding the use of any narcotic drug or controlled substance;

(27) "Provisional permit" means a temporary permit issued to a licensee engaged in the active practice of medicine within this Commonwealth who has admitted to violating any provision of KRS 311.595 that permits the licensee to continue the practice of medicine until the board issues a final order on the registration or reregistration of the licensee;~~[and]~~

(28) "Fellowship training license" means a license to practice medicine or osteopathy in a fellowship training program as specified by the license***; and***

(29) "Special faculty license" means a license to practice medicine that is limited to instruction as part of an accredited medical school program and any affiliated institution for which the medical school has assumed direct responsibility.

Section 2. KRS 311.571 is amended to read as follows:

(1) No applicant who is a graduate of a medical or osteopathic school located within the United States and its territories and protectorates or Canada shall be eligible for a regular license to practice medicine in the Commonwealth unless the applicant:

(a) Is able to understandably speak, read, and write the English language;

(b) Has graduated from an accredited college or university or has satisfactorily completed a collegiate course of study necessary for entry into an approved medical or osteopathic school or college;

(c) Has graduated from a prescribed course of instruction in a medical or osteopathic school or college situated in the United States or Canada and approved by the board;

(d) Has satisfactorily completed a prescribed course of postgraduate training of a duration to be established by the board in an administrative regulation promulgated in accordance with KRS Chapter 13A, after consultation with the University of Kentucky College of Medicine, the University of Louisville School of Medicine, and the Pikeville College School of Osteopathic Medicine;

(e) Has successfully completed an examination prescribed by the board;

(f) Has complied with the requirements of KRS 214.615(1); and

(g) Has fulfilled all other reasonable qualifications for regular licensure that the board may prescribe by regulation.

(2) No applicant who is a graduate of a medical or osteopathic school located outside the United States or Canada shall be eligible for a regular license to practice medicine in the Commonwealth unless the applicant:

(a) Is able to understandably speak, read, and write the English language;

(b) Has successfully completed a course of study necessary for entry into an approved medical or osteopathic school or college;

(c) Has graduated from a prescribed course of instruction in a medical or osteopathic school or college situated outside the United States or Canada and approved by the board or is a citizen of the United States and has been awarded a diploma by an approved medical or osteopathic school located within the United States or Canada as part of a program designed to allow for the transfer of students to such schools from schools located outside the United

States or Canada;

(d) Has successfully completed an examination prescribed by the board;

(e) Has been certified by the educational commission for foreign medical graduates or by an approved United States specialty board;

(f) Has satisfactorily completed a prescribed course of postgraduate training of a duration to be established by the board in an administrative regulation promulgated in accordance with KRS Chapter 13A, after consultation with the University of Kentucky College of Medicine, the University of Louisville School of Medicine, and the Pikeville College School of Osteopathic Medicine;

(g) Has complied with the requirements of KRS 214.615(1); and

(h) Has fulfilled all other reasonable qualifications for regular licensure that the board may prescribe by regulation.

(3) No applicant shall be eligible for a limited license-institutional practice unless the applicant:

(a) Has fulfilled all the requirements for regular licensure as delineated in subsection (1) of this section; or

(b) Has fulfilled the requirements for regular licensure as delineated in paragraphs (a) through (e) and (h) of subsection (2) of this section and in addition has satisfactorily completed a prescribed course of postgraduate training of at least one (1) full year's duration approved by the board;

(c) Has complied with the requirements of KRS 214.615(1); and

(d) Has fulfilled all other reasonable qualifications for limited licensure that the board may prescribe by regulation.

(4) The board may grant an applicant a limited license-institutional practice for a renewable period of one (1) year if the applicant:

(a) Has fulfilled the requirements for regular licensure as delineated in paragraphs (a), (b), (d), (e), and (h) of subsection (2) of this section;

(b) Has fulfilled the requirements for a limited license-institutional practice as indicated in subsection (3)(d) of this section;

(c) Has satisfactorily completed a prescribed course of postgraduate training of at least one (1) full year's duration approved by the board; and

(d) Has complied with the requirements of KRS 214.615(1).

(5) The board may grant an applicant a fellowship training license for a renewable period of one (1) year if the applicant:

(a) Has been accepted for a fellowship approved by the administration of any of Kentucky's medical schools and conducted under the auspices of that medical school; or

(b) Has graduated from a medical school located outside the United States or Canada that has been approved by the board; and

1. Has been certified by the appropriate licensing authority in his or her home country in the subject specialty of the fellowship; and

2. Is able to demonstrate that he or she is a physician of good character and is in good standing in the country where he normally practices medicine.

(6) *(a) The board may grant an applicant a special faculty license for a renewable period of one (1) year if the applicant:*

1. Holds or has been offered a full-time faculty appointment at an accredited Kentucky medical school approved by the board and is nominated for a special faculty license by the dean of the school of medicine;

2. Possesses a current valid license to practice medicine issued by another state, country, or other jurisdiction;

3. Is able to understandably speak, read, and write the English language;

4. Is board certified in his or her specialty;

5. Is not otherwise eligible for a regular license under this chapter; and

6. Is not subject to denial of a license under any provision of this chapter.

(b) The applicant shall submit the fee established by administrative regulation promulgated by the board for an initial license to practice medicine.

(c) An applicant approved for a license under this subsection shall not engage in the practice of medicine outside an academic setting.

(d) The board may grant a regular license to practice medicine to a person who has had a special faculty license for a period of at least five (5) consecutive years.

(7) An applicant seeking regular licensure in the Commonwealth who was originally licensed in another state may obtain

licensure in the Commonwealth without further testing and training if the applicant:

(a) Has been endorsed in writing by the applicant's original licensing state as being licensed in good standing in that state; and

(b) Would have satisfied all the requirements for regular licensure described in the preceding subsections had the applicant sought original licensure in this state.

(8)[~~(7)~~] No applicant shall be granted licensure in the Commonwealth unless the applicant has successfully completed an examination prescribed by the board in accordance with any rules that the board may establish by regulation concerning passing scores, testing opportunities and test score recognition.

(9)[~~(8)~~] Notwithstanding any of the requirements for licensure established by subsections (1) to *(8)*[~~(7)~~] of this section and after providing the applicant or reregistrant with reasonable notice of its intended action and after providing a reasonable opportunity to be heard, the board may deny licensure to an applicant or the reregistrant of an inactive license without a prior evidentiary hearing upon a finding that the applicant or reregistrant has violated any provision of KRS 311.595 or 311.597 or is otherwise unfit to practice. Orders denying licensure may be appealed pursuant to KRS 311.593.

(10)[~~(9)~~] Notwithstanding any of the foregoing, the board may grant licensure to an applicant in extraordinary circumstances upon a finding by the board that based on the applicant's exceptional education, training, and practice credentials, the applicant's practice in the Commonwealth would be beneficial to the public welfare.

(11)[~~(10)~~] Notwithstanding any provision of this section, the board may exercise its discretion to grant a visiting professor license to an applicant after considering the following:

(a) Whether the applicant meets the qualifications for a regular license;

(b) Whether the applicant is licensed to practice medicine in other states or in other countries; and

(c) The recommendation of the program director of an accredited medical school that confirms the applicant's employment as a visiting professor and that includes, if necessary, written justification for a waiver of the requirements specified in subsections (1) and (2) of this section.

Orders denying applications for a visiting professor license shall not be appealed under KRS 311.593.

Section 3. KRS 311.560 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, no person shall engage or attempt to engage in the practice of medicine or osteopathy within this state, or open, maintain, or occupy an office or place of business within this state for engaging in practice, or in any manner announce or express a readiness to engage in practice within this state, unless the person holds a valid and effective license or permit issued by the board as hereinafter provided.

(2) The provisions of subsection (1) of this section shall not apply to:

(a) Commissioned medical officers of the Armed Forces of the United States, or medical officers of the United States Public Health Service, the United States Veterans Administration, and other agencies of the government of the United States of America, while said persons are engaged in the performance, within this state, of their official duties under federal laws;

(b) 1. Persons who, being nonresidents of Kentucky and lawfully licensed to practice medicine or osteopathy in their states of actual residence, infrequently engage in the practice of medicine or osteopathy within this state, when called to see or attend particular patients in consultation and association with a physician licensed pursuant to this chapter; or

2. Persons who, being current participants in a medical residency program outside of Kentucky and lawfully licensed to practice medicine or osteopathy in the states of their medical residency programs, who participate in a temporary residency rotation of no more than sixty (60) days at a hospital in this Commonwealth. All persons who participate in a temporary residency rotation under this paragraph shall register with the board at no cost, on forms provided by the board, and shall be subject to the jurisdiction of the board for so long as they participate in the residency rotation. Persons who wish to participate in a second or subsequent temporary residency rotation under this paragraph shall seek advance approval of the board;

(c) Graduates of medical or osteopathic schools approved by the board, while engaged in performing supervised internship or first-year postgraduate training approved by the board at hospitals in this state. All first-year postgraduate trainees shall register with the board at no cost, on forms provided by the board. *No first-year postgraduate trainee shall violate the provisions of KRS 311.595 or KRS 311.597, and any first-year postgraduate trainee who is released or discharged from a training program for a reason that falls within KRS 311.595 or 311.597 shall be reported by the program director to the board*[~~This shall not be construed to otherwise exempt interns or first-year postgraduate trainees, or to exempt in any manner resident or staff physicians of hospitals, from the licensure requirements of KRS 311.530 to 311.620~~]. A residency physician who participates in a temporary residency rotation under paragraph (b) of this subsection shall not be required to obtain a license under KRS 311.530 to 311.620; or

(d) Physicians employed by a sports entity visiting Kentucky for a specific sporting event when the physician holds an active medical or osteopathic license in another state and limits the practice of medicine in Kentucky to medical treatment of the members, coaches, and staff of the sports entity that employs the physician.

Section 4. KRS 311.617 is amended to read as follows:

The board may enter into a contractual agreement with a nonprofit corporation or a medical professional association for the purpose of creating, supporting, and maintaining a *program*[~~committee~~] to be designated as the Kentucky *Physicians Health Foundation*[~~Committee on Impaired Physicians~~]. The board may promulgate administrative regulations subject to the provisions of KRS Chapter 13A to effectuate and implement any *program*[~~committee~~] formed pursuant to this section. The board may expend any funds it deems necessary to adequately provide for operational expenses of any *program*[~~committee~~] formed pursuant to this section.

SECTION 5. A NEW SECTION OF KRS 311.840 TO 311.862 IS CREATED TO READ AS FOLLOWS:

(1) Whenever, in the opinion of the executive director, based upon verified information contained in the application, an applicant for a certificate to practice as a physician assistant is eligible therefor under subsections (1) and (2) of KRS 311.844, the executive director may issue to the applicant, on behalf of the board, a temporary certificate which shall entitle the holder to practice as a physician assistant for a maximum of six (6) months from the date of issuance unless the temporary certificate is canceled by the executive director, who may cancel it at any time, without a hearing, for reasons deemed sufficient with appropriate consultation with the president, and who shall cancel it immediately upon direction by the board or upon the board's denial of the holder's application for a regular certificate. The temporary certificate shall not be renewable.

(2) The executive director shall present to the board the application for a license made by the holder of the temporary certificate. If the board issues a regular certificate to the holder of a temporary certificate, the fee paid in connection with the temporary certificate shall be applied to the regular certificate fee.

(3) If the executive director cancels a temporary certificate, he shall promptly notify, by United States certified mail, the holder of the temporary certificate, at the last known address on file with the board. The temporary certificate shall be terminated and of no further force or effect three (3) days after the date the notice was sent by certified mail.

The Committee on Transportation reported **HB 71**, with Committee Substitute and Committee Amendment attached thereto, **HB 92, HB 199**, with Committee Substitute attached thereto, **HB 365, HB 384, HJR 69**, and **HJR 90** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 71, AN ACT relating to the penalty for violating handicapped parking requirements.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, *KRS 189.450 to 189.458, KRS 189.4595 to 189.480*[~~189.450 to 189.480~~], subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents ($0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars ($100) and shall not be more than five hundred dollars ($500).

(b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars ($100); otherwise, the penalties in paragraph (a) of this subsection shall apply.

(c) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars ($10) nor more than one hundred

dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(27) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

(28) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall be fined two hundred and fifty dollars ($250) and one hundred percent (100%) of the fine shall be used exclusively for the personal care assistance program under KRS 205.900 to 205.920.

The Committee Substitute to **HB 71** is as follows:

HB 71, AN ACT relating to the penalty for violating handicapped parking requirements.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.456 is amended to read as follows:

(1) On the application of any person who has a severe visual, audio, or physical impairment, including partial paralysis, lower limb amputation, chronic heart condition, emphysema, arthritis, rheumatism, or other debilitating condition which limits or impairs one's personal mobility or ability to walk, the county clerk in the county of the person's residence shall issue the person with a disability an accessible parking placard. In addition, any agency or organization which transports persons with a disability as a part of the service provided by that agency or organization shall receive an accessible parking placard upon application to the county clerk for each vehicle used in the transportation of persons with a disability. The accessible parking placard issued shall be a two (2) sided hanger style placard and shall on each side bear the international symbol of access adopted by Rehabilitation International in 1969, the date of expiration of the placard, a seal or other identification of the Kentucky Transportation Cabinet, and shall contain the accessible parking placard identification number and other information the Transportation Cabinet may by regulation require. The international symbol of access shall be at least three (3) inches in height, be centered on the placard and in a white color on a blue shield.

(2) The fee payable to the county clerk for an accessible parking placard shall be eight dollars ($8.00) for each placard and the placard shall be valid for a period of *two (2)*[~~six (6)~~] years. The application shall be made on a form prepared by the Transportation Cabinet. Placards shall be printed at cabinet expense and distributed to the county clerk of each county who shall keep a record of applications filed and placards issued.

(3) For every person seeking an accessible parking placard, proof of the disability shall be required by:

(a) Evidence that the individual has a license plate for a person with a disability as provided by KRS 186.041 or 186.042;

(b) The county clerk issuing the permit ascertaining that the applicant is obviously disabled; or

(c) A statement from a licensed physician that the applicant is a person whose mobility, flexibility, coordination, respiration, or perceptiveness is significantly reduced by a permanent disability to that person's arms, legs, lungs, heart, ears, or eyes.

(4) For every agency or organization seeking an accessible parking placard for a person with a disability, application for the placard shall include:

(a) Name of the agency or organization requesting use of an accessible parking placard;

(b) Number of vehicles being used in the transportation of persons with a disability; and

(c) A statement from the director of the agency or organization verifying the need for the parking placard.

(5) The accessible parking placard shall, when the vehicle is parked in a parking space identified as accessible to a person with

a disability, be displayed so that it may be viewed from the front and rear of the vehicle by hanging the placard from the front windshield rear view mirror. When there is no rear view mirror, the placard shall be displayed on the dashboard.

(6) A person who has not been issued a license plate for a person with a disability under the provisions of KRS 186.041 or 186.042 may be issued a second parking placard for a fee of four dollars ($4).

(7) A person with a disability who has been issued a parking placard pursuant to this section may make application for a replacement placard by swearing in an affidavit that the original placard has been lost, stolen, or destroyed. The fee for the replacement placard shall be two dollars ($2).

(8) The Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to implement or administer this section.

Section 2. KRS 189.458 is amended to read as follows:

(1) Upon application of any person who has a severe temporary visual, audio, or physical impairment, including partial paralysis, heart condition, emphysema, arthritis, rheumatism, or other debilitating condition which limits or impairs one's personal mobility or ability to walk as defined in KRS 186.042, the county clerk in the county of the person's residence shall issue the person with a disability a temporary accessible parking placard.

(2) The accessible parking placard issued shall be a two (2) sided hanger style placard and shall on each side bear the international symbol of access adopted by Rehabilitation International in 1969, the date of expiration of the placard, a seal or other identification of the Kentucky Transportation Cabinet, and shall contain the accessible parking placard identification number and other information the Transportation Cabinet may by administrative regulation require. The international symbol of access shall be at least three (3) inches in height, be centered on the placard and in a white color on a red shield.

(3) The fee payable to the county clerk for a temporary accessible parking placard shall be two dollars ($2) for each placard and the placard shall be valid for a period of ***not more than three (3) months***[~~no more than six (6) months. The placard may be renewed for an additional six (6) months for a two dollar ($2) renewal fee~~].

(4) The application shall be made on a form prepared by the Transportation Cabinet. Placards shall be printed at cabinet expense and distributed to the county clerk of each county who shall keep a record of applications filed and placards issued.

(5) For every person seeking a temporary accessible parking placard, proof of the disability shall be required by a statement from a licensed physician that the applicant is a person whose mobility, flexibility, coordination, respiration, or perceptiveness is significantly reduced by a temporary disability to that person's arms, legs, lungs, heart, ears, or eyes.

(6) The temporary accessible parking placard, when the vehicle is parked in a parking space designated as accessible to and for the use of a person with a disability, shall be displayed so that it may be viewed from the front and rear of the vehicle by hanging it from the front windshield rear view mirror. When there is no rear view mirror, the placard shall be displayed on the dashboard.

(7) The Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to implement or administer this section.

Section 3. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, ***KRS 189.450 to 189.458, KRS 189.4595 to 189.480***[~~189.450 to 189.480~~], subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents ($0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars ($100) and shall not be more than five hundred dollars ($500).

(b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars ($100); otherwise, the penalties in paragraph (a) of this subsection shall apply.

(c) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(27) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

- (a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and
- (b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

(28) A person who violates the provisions of subsection (2) or (3) of KRS 189.459 shall be fined two hundred fifty dollars ($250). Ninety percent (90%) of the fine collected under this subsection shall immediately be forwarded to the personal care assistance program under KRS 205.900 to 205.920. Ten percent (10%) of the fine collected under this subsection shall annually be returned to the county where the violation occurred and distributed equally to all law enforcement agencies within the county.

The Committee Amendment No. 1 Title to **HB 71** is as follows:

HB 71, On page 1, amend the title to read as follows:

"AN ACT relating to handicapped parking.".

HB 92, AN ACT relating to special military license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.041 is amended to read as follows:

(1) The provisions of this section shall govern the issuance of all special military-related license plates. Except as provided in subsection (9) of this section, a person who wants to purchase a special military-related license plate shall apply to the county clerk in the county where the person lives on a form prescribed by the Transportation Cabinet. Each initial and renewal application shall be accompanied by proof that the person is associated with the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Coast Guard, United States Coast Guard Auxiliary, Kentucky National Guard, Merchant Marines with service between December 7, 1941, and August 15, 1945, or Civil Air Patrol in one (1) of the following ways:

- (a) An active component member;
- (b) A retired member; or
- (c) A veteran who received a discharge under honorable conditions, or the veteran's widow and:
  1. Performed twenty-four (24) months of active-duty service;
  2. Received an early release due to injuries or other medical condition, or at the convenience of the service;
  3. Received a hardship discharge;
  4. Was separated or retired due to a disability; or
  5. Was determined to have a service-connected disability incurred during the enlistment.

(2) Initial registration and renewal registration fees for special military-related license plates shall be charged as provided in this subsection and KRS 186.174:

- (a) Disabled veterans and recipients of the Congressional Medal of Honor licensed under subsection (5) of this section shall not be charged an initial registration fee and shall not be charged a renewal registration fee. The license plate and certificate of registration shall be issued free of charge.

(b) The initial registration fee shall be a seventeen dollar ($17) state fee that shall be divided under the provisions of subsection (3) of this section and that includes the cost to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee, and the renewal registration fee shall be a three dollar ($3) county clerk fee for:

1. Former prisoners of war licensed under subsection (11) of this section;
2. Survivors of Pearl Harbor licensed under subsection (12) of this section; and
3. Members of the National Guard licensed under subsection (13) of this section.

(c) The initial registration fee shall be a seventeen dollar ($17) state fee that shall be divided under the provisions of subsection (3) of this section, and the renewal registration fee shall be a twelve dollar ($12) state fee that includes the cost to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee for:

1. Disabled veterans licensed under subsection (6) of this section;
2. Purple Heart recipients licensed under subsection (10) of this section, except that if a Purple Heart recipient also qualifies as a disabled veteran under subsection (5) of this section, the Purple Heart recipient may receive either a Purple Heart or a disabled veteran's license plate, both initial and renewal, and the certificate of registration free of charge;
3. Members of the Civil Air Patrol licensed under subsection (14) of this section; and
4. Other active, retired, veteran, reserve, or auxiliary members of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or Merchant Marines licensed under subsection (15) of this section.

(d) Recipients of the Distinguished Service Cross, Navy Cross, or Air Force Cross licensed under subsection (9) of this section shall be charged an initial registration fee and a renewal registration fee of three dollars ($3.00) that shall be retained by the county clerk. A recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross licensed under subsection (9) of this section shall not be charged a state fee when initially receiving the plate or upon annual renewal of the plate.

(e) The initial and renewal registration fee for a military license plate that has been combined with a personalized license plate under the provisions of this section shall be as provided under KRS 186.174.

(3) The initial state fee collected under subsections (2)(b) and (2)(c) of this section shall be divided between the Transportation Cabinet and the Department of Veterans' Affairs. The Transportation Cabinet shall receive twelve dollars ($12) of the initial state fee and the Department of Veterans' Affairs shall receive five dollars ($5) of the initial state fee. The county clerk shall forward money collected under subsections (2)(b) and (2)(c) of this section to the Transportation Cabinet who shall forward the money to the Department of Veterans' Affairs on a quarterly basis and the department shall deposit the money into the veterans' program trust fund established by KRS 40.460(2)(b). A person renewing a special military license plate issued under this section may donate five dollars ($5) to support the veteran's program trust fund. Money donated under this subsection shall be paid to the county clerk who shall forward the money to the Transportation Cabinet who shall forward the money on a quarterly basis to the Department of Veterans' Affairs and the department shall deposit the money into the veteran's program trust fund established by KRS 40.460(2)(b).

(4) ***(a)*** A special military-related license plate may be issued for use on***:***

1. A passenger car registered under KRS 186.050(1)***;***

2. A motorcycle or sidecar attachment registered under subsection (2) of Section 2 of this Act; or[~~ for~~]

3. A commercial vehicle registered under KRS 186.050(3)(a) that has a gross laden weight of six thousand (6,000) pounds or less.

(b) Except as provided in subsection (7) of this section and KRS 186.174, a license plate issued under this section shall have the renewal registration decal issued annually during the applicant's birth month and shall be a five (5) year license plate. The member, retired member, veteran, or reservist may purchase two (2) special military-related license plates annually for vehicles they own or lease. A license plate issued under this section may be combined with a personalized license plate under the provisions of KRS 186.174.

(5) A recipient of the Congressional Medal of Honor, a recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross, or a disabled veteran who has been or shall be given financial assistance toward the purchase or lease of a motor vehicle by the United States Department of Veterans Affairs under the provisions of 38 U.S.C. sec. 1901, or any other public law that may be passed by the Congress of the United States shall initially and annually be issued a certificate of registration and a special military-related license plate free of charge.

(6) A veteran who has been declared to be at least seventy percent (70%) service-connected disabled by the United States Department of Veterans Affairs, or who is receiving total service-connected disability rating for compensation on individual unemployability, and who has not received financial assistance from the United States Department of Veterans Affairs toward the purchase or lease of a motor vehicle shall be eligible for a disabled veterans license plate upon payment of the initial registration fee required in subsection (2)(c) of this section.

(7) A disabled veterans license plate shall be printed in red, white, and blue colors. Half of the license plate shall be in one (1) color, the other half a second color, and the figures and lettering in the third color. Each plate shall contain the international symbol of access adopted by Rehabilitation International in 1969, the name of the state, the year, the registration number, and the words "Disabled Vet." A disabled veterans license plate shall have the renewal registration decal issued annually on July 31.

(8) A recipient of the Congressional Medal of Honor shall be eligible for a Congressional Medal of Honor license plate that shall be printed in blue and white colors and shall follow the color scheme for all figures and letters as prescribed for passenger cars. Each plate shall contain the name or an abbreviation of the state and the words "Medal of Honor" and a number uniquely identifying each recipient, in lieu of registration numbers.

(9) A recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross shall be eligible for a Service Cross license plate upon submission of an application to the Kentucky Department of Veterans' Affairs. The recipient shall be required to include with the initial application for a Service Cross license plate a copy of the general order that authorized the award and the recipient's Department of Defense form number 214. The Department of Veterans' Affairs shall verify the documentation submitted with the application for a Service Cross license plate, and if the individual applying for the plate is confirmed to be a recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross, the Department of Veterans' Affairs shall submit the applicant's name to the Transportation Cabinet's Division of Motor Vehicle Licensing not later than September 1 preceding the year that the Service Cross license plate is to be initially issued or renewed. When the Service Cross license plate is ready, the plate shall be sent to the county clerk in the county of the applicant's residence. The Transportation Cabinet's Division of Motor Vehicle Licensing shall inform each applicant in writing that the Service Cross license plate is ready and may be picked up at the county clerk's office. Each Service Cross license plate shall contain the name or an abbreviation for the state and an alphabetic or numeric designation uniquely identifying each recipient of a Service Cross license plate in lieu of registration numbers. The Transportation Cabinet shall have the authority to select three (3) designs and the appropriate color scheme for each design of the Service Cross license plate. In addition to the requirements of this subsection, the Transportation Cabinet shall have the authority to include other information on the Service Cross license plate. The Transportation Cabinet shall prescribe the type of application form required by this subsection and shall supply the Department of Veterans' Affairs with the application form required by this subsection.

(10) A recipient of a Purple Heart medal shall be eligible for a Purple Heart license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. A Purple Heart license plate shall bear the name "Purple Heart," a registration number, and an appropriate logo to be determined by the Transportation Cabinet.

(11) A person who is a former prisoner of the enemy during World War I, World War II, the Korean War, or the Vietnam War, or the spouse of a deceased former prisoner of war, shall be eligible for a former prisoner of war license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. The application shall be accompanied by written proof from the United States Department of Veterans Affairs or other appropriate federal agency stating the period of time the person or person's spouse was a prisoner of war. A former prisoner of war license plate shall be printed in red, white, and blue colors. Each plate shall contain the name of the state, the year, the registration number, and the words "Former P.O.W." If a former prisoner of war dies with a vehicle licensed as authorized under this section, the person's surviving spouse may retain the license plate for use on the same vehicle or on another vehicle that complies with the provisions of subsection (4) of this section.

(12) A person who is certified by the Kentucky chapter of the Pearl Harbor Survivors Association as being a survivor of the attack on Pearl Harbor shall be eligible for a Pearl Harbor license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. The Transportation Cabinet shall issue an applicant an appropriately designed plate identifying the vehicle as registered to a Pearl Harbor survivor. The person shall be required to attach to the special military-related license plate application written evidence from the Kentucky chapter of the Pearl Harbor Survivors Association that the person:

(a) Was a member of the United States Armed Forces on December 7, 1941;

(b) Was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m., Hawaii time, at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three (3) miles;

(c) Was discharged honorably from the United States Armed Forces; and

(d) Is certified by the Kentucky chapter of the Pearl Harbor Survivors Association.

(13) A person who is a member of the Kentucky National Guard, or a retired member, shall be eligible for a National Guard license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. A National Guard license plate shall bear the name "Kentucky National Guard," a registration number, and the logo of the National Guard. Upon termination of membership in the Kentucky National Guard, except for those who remain eligible through retirement, a person shall comply with the provisions of subsection (16) of this section.

(14) A person who is a member of the Civil Air Patrol shall be eligible for a Civil Air Patrol license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. A Civil Air Patrol license plate shall bear the name "Civil Air Patrol," a registration number, and an appropriate logo to be determined by the Transportation Cabinet. Upon termination of membership in the Civil Air Patrol, a person shall comply with the provisions of subsection (16) of this

section.

(15) (a) A person who meets the requirements of subsection (1) of this section shall be eligible for a military license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. The plate shall bear:

1. A seal indicating Army, Navy, Air Force, Marine Corps, or Coast Guard, or, in the case of the Merchant Marines, a seal indicating the branch of service issuing a discharge;
2. A decal indicating whether the person's status is active duty, reserve duty, veteran, retired veteran, or widow; and, if applicable, a decal for auxiliary in the case of the Coast Guard or a decal for the Merchant Marines;
3. A veteran's decal may further indicate a veteran's service in a wartime era; and
4. A registration number.

(b) Upon termination of membership in the active component or reserves of the United States Armed Forces or the United States Coast Guard, a person shall comply with the provisions of subsection (16) of this section.

(c) The Transportation Cabinet, in coordination with the Department of Veterans' Affairs, shall promulgate an administrative regulation under KRS Chapter 13A defining criteria for the issuance of specific decals for veterans' wartime service.

(16) Except for persons changing their status to retired, within thirty (30) days of termination of membership or reserve status in a group eligible for a special military-related license plate, a person issued a military plate under this section or a combined personalized/special military license plate issued under KRS 186.174, shall return the plate to the county clerk of the county of his residence. Upon payment of a three dollar ($3) county clerk fee, the county clerk shall issue the person a regular license plate to replace the plate being surrendered.

(17) Upon the sale, transfer, or termination of a lease of a motor vehicle for which a special military-related license plate has been issued, the owner shall return the military plate and the certificate of registration to the county clerk. The county clerk shall issue a regular license plate and certificate of registration upon payment of a twelve dollar ($12) state fee which includes the fifty cent ($0.50) fee to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee. The twelve dollar ($12) state fee shall be forwarded to the Transportation Cabinet. Upon request and payment of a three dollar ($3) fee, the county clerk shall reissue the special military-related license plate for use on any other vehicle owned by the same person who purchased the special plate for the current licensing period.

(18) The cabinet shall promulgate administrative regulations to set forth the documentation required in order to establish a person's qualifications to receive any license plate issued under this section.

(19) A person seeking a special military-related license plate for a vehicle provided to that person pursuant to an occupation shall conform to the requirements of KRS 186.050(14).

(20) If a special military-related license plate is lost, stolen, mutilated, or deteriorates to the point where the inscriptions or decals are not discernible, the person to whom the plate was issued may obtain a replacement plate free of charge.

Section 2. KRS 186.050 is amended to read as follows:

(1) The annual registration fee for motor vehicles, including taxicabs, airport limousines, and U-Drive-Its, primarily designed for carrying passengers and having provisions for not more than nine (9) passengers, including the operator, and pickup trucks and passenger vans which are not being used on a for-hire basis shall be eleven dollars fifty cents ($11.50).

(2) ***Except as provided in Section 1 of this Act,*** the annual registration fee for each motorcycle shall be nine dollars ($9), and for each sidecar attachment, seven dollars ($7).

(3) (a) All motor vehicles having a declared gross weight of vehicle and any towed unit of six thousand (6,000) pounds or less, except those mentioned in subsections (1) and (2) of this section and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (4) to (14) of this section, shall be eleven dollars and fifty cents ($11.50).

(b) All motor vehicles except those mentioned in subsections (1) and (2) of this section, and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (3)(a) and (4) to (14) of this section, shall be as follows:

Declared Gross Weight of Vehicle and Any Towed Unit	Registration Fee
6,001-10,000	$24.00
10,001-14,000	30.00
14,001-18,000	50.00
18,001-22,000	132.00
22,001-26,000	160.00

26,001-32,000	216.00
32,001-38,000	300.00
38,001-44,000	474.00
44,001-55,000	669.00
55,001-62,000	1,007.00
62,001-73,280	1,250.00
73,281-80,000	1,410.00

(4) (a) Any farmer owning a truck having a gross weight of thirty-eight thousand (38,000) pounds or less may have it registered as a farmer's truck and obtain a license for eleven dollars and fifty cents ($11.50). The applicant's signature upon the certificate of registration and ownership shall constitute a certificate that he is a farmer engaged in the production of crops, livestock, or dairy products, that he owns a truck of the gross weight of thirty-eight thousand (38,000) pounds or less, and that during the next twelve (12) months the truck shall not be used in for-hire transportation and may be used in transporting persons, food, provender, feed, machinery, livestock, material, and supplies necessary for his farming operation, and the products grown on his farm.

(b) Any farmer owning a truck having a declared gross weight in excess of thirty-eight thousand (38,000) pounds shall not be required to pay the fee set out in subsection (3) of this section and, in lieu thereof, shall pay forty percent (40%) of the fee set out in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the registration receipt shall be considered to be a certification that he is a farmer engaged solely in the production of crops, livestock or dairy products, and that during the current registration year the truck will be used only in transporting persons, food, provender, feed, and machinery used in operating his farm and the products grown on his farm.

(5) Any person owning a truck or bus used solely in transporting school children and school employees may have the truck or bus registered as a school bus and obtain a license for eleven dollars fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district, that he has caused to be printed on each side of the truck or bus and on the rear door the words "School Bus" in letters at least six (6) inches high, and of a conspicuous color, and the truck or bus will be used during the next twelve (12) months only for the purpose stated.

(6) Any church or religious organization owning a truck or bus used solely in transporting persons to and from a place of worship or for other religious work may have the truck or bus registered as a church bus and obtain a license for eleven dollars and fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus will be used only for the transporting of persons to and from a place of worship, or for other religious work, and that there has been printed on the truck or bus in large letters the words "Church Bus," with the name of the church or religious organization owning and using the truck or bus, and that during the next twelve (12) months the truck or bus will be used only for the purpose stated.

(7) Any person owning a motor vehicle with a gross weight of fourteen thousand (14,000) pounds or less on which a wrecker crane or other equipment suitable for wrecker service has been permanently mounted may register the vehicle and obtain a license for eleven dollars fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit that a wrecker crane or other equipment suitable for wrecker service has been permanently mounted on such vehicle and that during the next twelve (12) months the vehicle will be used only in wrecker service. If the gross weight of the vehicle exceeds fourteen thousand (14,000) pounds, the vehicle shall be registered in accordance with subsection (3) of this section. The gross weight of a vehicle used in wrecker service shall not include the weight of the vehicle being towed by the wrecker.

(8) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which when operated in this state are used exclusively for the transportation of property within the limits of the city named in the affidavit hereinafter required to be filed, or within ten (10) miles of the city limits of the city if it is a city of the first, second, third, or fourth class, or within five (5) miles of its limits if it is a city of the fifth or sixth class, or anywhere within a county containing an urban-county government, shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay seventy-five percent (75%) of the fee set forth in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. Nothing in this section shall be construed to limit any right of nonresidents to exemption from registration under any other provisions of the laws granting reciprocity to nonresidents. Operations outside of this state shall not be considered in determining whether or not the foregoing mileage limitations have been observed. When claiming the right to the reduced fee, the applicant's signature on the certificate of registration and ownership shall constitute a certification or affidavit stating that the motor vehicle when used within this state is used only for the transportation of property within the city to be named in the affidavit and the area above set out and that the vehicle will not be used outside of a city and the area above set out during the current registration period.

(9) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which are used exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility, where such mill or processing facility is located at a point not more than fifty (50) air miles from the harvest area or which are used

exclusively for the transportation of concrete blocks or ready-mixed concrete from the point at which such concrete blocks or ready-mixed concrete is produced to a construction site where such concrete blocks or ready-mixed concrete is to be used, where such construction site is located at a point not more than thirty (30) air miles from the point at which such concrete blocks or ready-mixed concrete is produced shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof, shall pay seventy-five percent (75%) of the fee set out in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the certificate of registration and ownership shall constitute a certification that the motor vehicle will not be used during the current registration period in any manner other than that for which the reduced fee is provided in this section.

(10) Any owner of a commercial vehicle registered for a declared gross weight in excess of eighteen thousand (18,000) pounds, intending to transfer same and desiring to take advantage of the refund provisions of KRS 186.056(2), may reregister such vehicle and obtain a "For Sale" certificate of registration and ownership for one dollar ($1). Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. No refund may be made under the provisions of KRS 186.056(2) until such time as the title to such vehicle has been transferred to the purchaser thereof. Provided, however, that nothing herein shall be so construed as to prevent the seller of a commercial vehicle from transferring the registration of such vehicle to any purchaser thereof.

(11) The annual registration fee for self-propelled vehicles containing sleeping or eating facilities shall be twenty dollars ($20) and the multiyear license plate issued shall be designated "Recreational vehicle." The foregoing shall not include any motor vehicle primarily designed for commercial or farm use having temporarily attached thereto any sleeping or eating facilities, or any commercial vehicle having sleeping facilities.

(12) The registration fee on any vehicle registered under this section shall be increased fifty percent (50%) when the vehicle is not equipped wholly with pneumatic tires.

(13) (a) The Department of Vehicle Regulation is authorized to negotiate and execute an agreement or agreements for the purpose of developing and instituting proportional registration of motor vehicles engaged in interstate commerce, or in a combination of interstate and intrastate commerce, and operating into, through or within the Commonwealth of Kentucky. The agreement or agreements may be made on a basis commensurate with, and determined by, the miles traveled on, and use made of, the highways of this Commonwealth as compared with the miles traveled on and use made of highways of other states, or upon any other equitable basis of proportional registration. Notwithstanding the provisions of KRS 186.020, the cabinet shall promulgate administrative regulations concerning the registration of motor vehicles under any agreement or agreements made under this section and shall provide for direct issuance by it of evidence of payment of any registration fee required under such agreement or agreements. Any proportional registration fee required to be collected under any proportional registration agreement or agreements shall be in accordance with the taxes established in this section.

(b) Any owner of a commercial vehicle who is required to title his motor vehicle under this section shall first title such vehicle with the county clerk pursuant to KRS 186.020 for a state fee of one dollar ($1). Title to such vehicle may be transferred; however title without proper registration shall not authorize the operation or use of the vehicle on any public highway. Any commercial vehicle properly titled in Kentucky may also be registered in Kentucky, and, upon payment of the required fees, the department may issue an apportioned registration plate to such commercial vehicle.

(c) Any commercial vehicle that is properly titled in a foreign jurisdiction, which vehicle is subject to apportioned registration, as provided in paragraph (a) of this subsection, may be registered in Kentucky, and, upon proof of proper title, and payment of the required fees, the department may issue an apportioned registration plate to the commercial vehicle. The department shall promulgate administrative regulations in accordance with this section.

(14) Any person seeking to obtain a special license plate for an automobile that has been provided to him pursuant to an occupation shall meet both of the following requirements:

(a) The automobile shall be provided for the full-time exclusive use of the applicant; and

(b) The applicant shall obtain permission in writing from the vehicle owner or lessee on a form provided by the cabinet to use the vehicle and for the vehicle to bear the special license plate.

HB 199, AN ACT relating to roads.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 178.010 is amended to read as follows:

(1) As used in this chapter, unless the context otherwise requires:

(a) "Construction" includes reconstruction and improvement;

(b) "County roads" are public roads which have been ***formally*** accepted by the fiscal court of the county as a part of the county system[~~ after July 1, 1914~~], or private roads, streets, or highways which have been acquired by the county pursuant to ***subsection (3) of this section or*** KRS 178.405 to 178.425. "County roads" includes necessary bridges, culverts, sluices, drains, ditches, waterways, embankments or retaining walls; and

(c) "Hard surface road" means a road the surface of which is asphalt, brick, stone block, macadam, concrete, gravel or other material of equal merit.

(2) Nothing in this chapter shall be construed to take from the jurisdiction or control of the legislative body of any incorporated city any road, bridge, landing or wharf, or any other thing exclusively under the jurisdiction or control of ***the***[~~such~~] city.

(3) Nothing in this chapter shall prevent any fiscal court from acquiring ***unimproved*** land by gift for public purposes. ***However, on and after the effective date of this Act, a fiscal court may only accept a private road, street, or highway by gift if the private road, street, or highway has been constructed to meet minimum construction standards established by the fiscal court.***

(4) Nothing in this chapter, including the fact that a municipal street has not been accepted into the county road system, shall prevent any county from entering into an agreement, pursuant to the provisions of KRS 65.210 to 65.300, with any city located within the county to perform work upon or to provide personnel, materials or equipment for work to be performed upon any street located within the city. A county may pay one hundred percent (100%), or a lesser percentage, of all or any part of the cost of the joint undertaking, based upon the terms agreed to in the interlocal cooperative agreement required by this subsection.

Section 2. KRS 178.025 is amended to read as follows:

(1) Any road, street, highway or parcel of ground dedicated and laid off as a public way and used without restrictions ***on a continuous basis*** by the general public for ***fifteen (15)***[~~five (5)~~] consecutive years, shall conclusively be presumed to be a public road.

(2) ***Any road that according to county records has not been maintained with county funds on a continuous basis for fifteen (15) consecutive years shall not be considered to be a part of the county road system and shall not be eligible to have county funds expended for maintenance or improvement unless the fiscal court has complied with the provisions of Section 7 of this Act***[~~In the absence of any record, the width of a public road right-of-way shall be presumed to extend to and include that area lying outside the shoulders and ditch lines and within any landmarks such as fences, fence posts, corner stones or other similar monuments indicating the boundary line.~~

~~(3) In the absence of both record or landmark, the right-of-way of a public road shall be deemed to extend to and include the shoulders and ditch lines adjacent to said road, and to the top of cuts or toe of fills where such exist~~].

Section 3. KRS 178.040 is amended to read as follows:

(1) In order to change the width of a county road, the fiscal court***, an urban-county government,*** or a consolidated local government shall make a special order for a different width. The order shall be recorded in the office of the county clerk. In order to change the width of the right-of-way of a portion of a county through road system the fiscal court of a county containing a city of the first class or a consolidated local government may make a special order for a different width. The order shall be recorded in the office of the county road engineer.

(2) All county roads ***and all public roads that are being adopted into a county road system after the effective date of this Act***[~~hereafter established~~] shall occupy a ***minimum*** right-of-way ***width of***[~~not less than~~] thirty (30) feet***, fifteen (15) feet in each direction as measured from the centerline of the road. All county roads and all public roads that were in existence prior to the effective date of this Act shall, in the absence of any written record to the contrary, be deemed to meet and occupy a minimum right-of-way width of thirty (30) feet. A***[~~wide, but the~~] fiscal court***, an urban-county government,*** or a consolidated local government may order ***the minimum right-of-way***[~~it~~] to be a greater width. All roads added to the county through road system in a county containing a city of the first class or a consolidated local government in accordance with KRS 178.333 shall occupy a right-of-way width as ordered by the fiscal court or the consolidated local government.

(3) In acquiring a right-of-way for a county through road within any city, the fiscal court or the county court of a county containing a city of the first class or the consolidated local government may exercise any powers granted them by statute for the acquisition of property.

Section 4. KRS 178.070 is amended to read as follows:

The fiscal court may direct any county road to be discontinued. Notice must be published, according to the provisions of KRS 178.050, and in addition, notices must be placed at three (3) ***prominent and visible*** public places ***within one (1) mile***[~~in the vicinity~~] of the road. After[~~ the~~] posting ***the***[~~of~~] notices[~~ as aforesaid~~], the fiscal court shall appoint two (2) viewers who ***have no vested interest in the discontinuance of the road and who***, together with the county road engineer, shall view the road and report in writing at the hearing what inconvenience would result from the discontinuance. Upon ***presentation of the***[~~such~~] report and other evidences, if any, ***at a public meeting of the fiscal court,*** the court may discontinue the road.

Section 5. KRS 178.080 is amended to read as follows:

(1) When any person desires the establishment or alteration of a public road, bridge or landing, he shall petition the fiscal court setting forth in his petition specifically the nature and location of the proposed work. The court shall thereupon appoint two (2) viewers who, together with the county road engineer, shall view the ground and report in writing the advantages and disadvantages which, in their opinion, will result to the individual and to the public from the proposed work and the grades and bearings of the proposed road, and other facts and circumstances that may enable the fiscal court

to determine whether the work ought to be undertaken by the county.

(2) If the petition is for the establishment or alteration of a public road leading from a main public road, the report shall set out whether such road should be established, stating specifically whether it would be necessary to take any burying ground, garden, yard, orchard, or any part thereof, or to injure or destroy any buildings and the probable cost of the work, the names of the landowners whose property would have to be taken or injured, which of them would require compensation and the probable amount to which each would be entitled. They shall make careful examination of routes or locations other than that proposed or petitioned for, keeping in view the possible future development of the county and the accommodations of the general traveling public, and shall report ***to the fiscal court at a public meeting*** in favor of the one they prefer, giving reasons for the preference. A map giving the grades and bearings of the routes or locations shall be returned with the report.

(3) If it appears to the fiscal court that the interests of the general public may be furthered thereby, the fiscal court shall personally examine the proposed work. If the court decides to undertake the proposed work the county judge/executive shall appoint a day for hearing the parties interested, and cause notices thereof to be given to all interested parties.

(4) If the county judge/executive at any time has sufficient evidence before him to enable him to ascertain what would be a just compensation to the proprietors and tenants, and if the proprietors and tenants are willing to accept what the county judge/executive deems just, the county judge/executive, upon such acceptance being reduced to writing and signed by the proprietors and tenants, may determine to undertake the work, subject to the consent and approval of the fiscal court.

Section 6. KRS 178.100 is amended to read as follows:

From a decision of the fiscal court ordering a new road to be opened, or ordering an alteration or discontinuance of an existing road, or allowing gates to be erected across a road or abolishing existing gates, or a decision refusing any such order, the party aggrieved may bring an action in the Circuit Court ***of the county where the road is located*** to contest the decision of the fiscal court.

Section 7. KRS 178.115 is amended to read as follows:

(1) Whenever the fiscal court of any county deems it to be in the best interest of ***the***[~~such~~] county to open, establish or alter the location of any public road, street, alley, ditch, culvert, bridge or similar public way or structure in ***the***[~~such~~] county, ***the***[~~said~~] fiscal court shall adopt a resolution setting forth the necessity for ***the***[~~such~~] public road or structure, and thereupon ***the***[~~such~~] public road or structure shall be deemed opened, established or altered, as the case may be, on behalf of the county. A certified copy of ***the***[~~said~~] resolution[~~ or order~~] shall be posted at the courthouse door of the county within five (5) days after its adoption and a certified copy of ***the***[~~said~~] resolution shall be posted by the county road engineer of the county along or at the proposed road or structure within five (5) days after its adoption.

(2) In all cases where[~~ such~~] public roads or structures have been established, any person or persons aggrieved thereby may prosecute an appeal from ***a***[~~ such order or~~] resolution of the fiscal court by filing a petition in equity in the Circuit Court of the county ***where the road or structure is located*** setting forth his grievance, to which petition shall be attached an attested or certified copy of ***the***[~~such order or~~] resolution. ***The***[~~Such~~] petition shall be filed within thirty-five (35) days from the date ***the***[~~such order or~~] resolution was entered. ***An***[~~Such~~] appeal shall be heard and decided by the court without the intervention of a jury. Any party so appealing shall execute and file a bond for costs at the time such appeal is taken. An appeal to the Court of Appeals may be taken in accordance with the Rules of Civil Procedure.

Section 8. KRS 178.117 is amended to read as follows:

(1) Any person or corporation, public or private, or any group of such persons or corporations or both, residing in or owning property adjacent to any publicly dedicated road in unincorporated territory in ***any***[~~a~~] county ***and***[~~containing a city of the first class or consolidated local government~~] desiring to make any improvements to the publicly dedicated road shall submit to the fiscal court***, the urban-county government,*** or the consolidated local government for approval plans and specifications for its improvements at their own expense. Any[~~ such~~] request for private improvement shall include all the information required by KRS 184.020 to accompany a request for the creation of a public road district pursuant to that section.

(2) The sponsors of the private improvement of the publicly dedicated road shall present their request, together with the attached maps and estimates of cost, to the fiscal court***, the urban-county government,*** or the consolidated local government, who shall turn over to the county engineer for his ***or her*** consideration the maps and estimates of cost. In considering whether to permit the requested improvement, the fiscal court, ***the urban-county government,*** or the consolidated local government, and the county engineer shall follow the same procedures provided for in KRS 184.040 and the same appellate rights provided for in these sections are available to the petitioners. When the county engineer receives from the fiscal court***, the urban-county government,*** or the consolidated local government an application for approval of plans or specifications for the private improvement of publicly dedicated roads by some individual or corporation, or a combination thereof, the county engineer shall be authorized and empowered to examine, inspect, and investigate, as seems to be advisable, the sufficiency of the improvements which the application seeks to serve the purposes intended, and to establish and make reasonable charges for ***his or her***[~~such~~] services on the basis of a schedule adjusted according to the services required to ***conduct the***[~~make such~~] investigation or on any other reasonable method.

(3) When it appears to the county engineer that the completion of the improvement by or on behalf of any[~~ such~~] individual or

corporation requires inspection and supervision in order to assure the protection of the public safety and the proper subsequent completion of ***the***[~~such~~] work for the purposes intended, the county engineer shall include[~~ such~~] findings in his ***or her*** recommendation to the fiscal court***, the urban-county government,*** or the consolidated local government approving, modifying, or disapproving the particular plans and projects, and shall charge ***the***[~~such~~] person or corporation for ***the***[~~such~~] inspection and supervision on the basis of the actual cost of inspection plus a reasonable additional cost of supervision.

Section 9. KRS 178.405 is amended to read as follows:

When any private road, street, or highway[~~ established prior to February 12, 1969,~~] in an unincorporated area in ***any***[~~a~~] county[~~ containing a city of the first class or a consolidated local government, which area is not within the jurisdictional boundaries of a city of the second through sixth classes of cities,~~] has been used by the general public openly, continuously, and notoriously for a period of at least fifteen (15) years, it shall be implied that such road, street, or highway may be dedicated to public use; Provided, that fifty-five percent (55%) of all property owners abutting the private road, street, or highway sign a petition stating that they are willing to dedicate the road, street, or highway to public use.

Section 10. KRS 178.415 is amended to read as follows:

When the fiscal court has made a determination in accordance with the provisions of KRS 178.410 that the road, street, or highway has been dedicated to public use, the county shall have a fee simple title to the part of the road, street, or highway which the plat, filed in the office of the county clerk, indicates as being for street purposes. However, if the road, street, or highway is dedicated in accordance with the provisions of KRS 178.405, and a plat does not exist, then the fiscal court shall establish a ***thirty (30)***[~~fifty (50)~~] foot minimum width as a condition precedent to dedication to public use.

Section 11. The following KRS section is repealed:

178.155 Effect of lack of maintenance of road by county for fifteen years.

The Committee Substitute to **HB 199** is as follows:

HB 199, AN ACT relating to roads.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 178.010 is amended to read as follows:

(1) As used in this chapter, unless the context otherwise requires:

(a) "Construction" includes reconstruction and improvement;

(b) "County roads" are public roads which have been ***formally*** accepted by the fiscal court of the county as a part of the county road system[~~ after July 1, 1914~~], or private roads, streets, or highways which have been acquired by the county pursuant to ***subsection (3) of this section or*** KRS 178.405 to 178.425. "County roads" includes necessary bridges, culverts, sluices, drains, ditches, waterways, embankments or retaining walls; and

(c) "Hard surface road" means a road the surface of which is asphalt, brick, stone block, macadam, concrete, gravel or other material of equal merit.

(2) Nothing in this chapter shall be construed to take from the jurisdiction or control of the legislative body of any incorporated city any road, bridge, landing or wharf, or any other thing exclusively under the jurisdiction or control of ***the***[~~such~~] city.

(3) Nothing in this chapter shall prevent any fiscal court from acquiring ***unimproved*** land by gift for public purposes. ***However, on and after the effective date of this Act, a fiscal court may only accept a private road, street, or highway by gift if the private road, street, or highway has been constructed to meet minimum construction standards established by the fiscal court.***

(4) Nothing in this chapter, including the fact that a municipal street has not been accepted into the county road system, shall prevent any county from entering into an agreement, pursuant to the provisions of KRS 65.210 to 65.300, with any city located within the county to perform work upon or to provide personnel, materials or equipment for work to be performed upon any street located within the city. A county may pay one hundred percent (100%), or a lesser percentage, of all or any part of the cost of the joint undertaking, based upon the terms agreed to in the interlocal cooperative agreement required by this subsection.

Section 2. KRS 178.025 is amended to read as follows:

(1) Any road, street, highway or parcel of ground dedicated and laid off as a public way and used without restrictions ***on a continuous basis*** by the general public for ***fifteen (15)***[~~five (5)~~] consecutive years, shall conclusively be presumed to be a public road.

(2) ***Any road that according to county records has not been maintained with county funds on a continuous basis for fifteen (15) consecutive years shall not be considered to be a part of the county road system and shall not be eligible to have county funds expended for maintenance or improvement unless the fiscal court has complied with the provisions of Section 7 of this Act***[~~In the absence of any record, the width of a public road right-of-way shall be presumed to extend to~~

~~and include that area lying outside the shoulders and ditch lines and within any landmarks such as fences, fence posts, corner stones or other similar monuments indicating the boundary line.~~

~~(3) In the absence of both record or landmark, the right-of-way of a public road shall be deemed to extend to and include the shoulders and ditch lines adjacent to said road, and to the top of cuts or toe of fills where such exist~~].

Section 3. KRS 178.040 is amended to read as follows:

(1) In order to change the width of a county road, the fiscal court***, an urban-county government,*** or a consolidated local government shall make a special order for a different width. The order shall be recorded in the office of the county clerk. In order to change the width of the right-of-way of a portion of a county through road system the fiscal court of a county containing a city of the first class or a consolidated local government may make a special order for a different width. The order shall be recorded in the office of the county road engineer.

(2) All county roads ***and all public roads that are being adopted into a county road system after the effective date of this Act***[~~hereafter established~~] shall occupy a ***minimum*** right-of-way ***width of***[~~not less than~~] thirty (30) feet***, fifteen (15) feet in each direction as measured from the centerline of the road, unless the fiscal court finds that a thirty (30) foot minimum cannot be met due to the topography of the road or other extraordinary circumstances. All county roads and all public roads that were in existence prior to the effective date of this Act shall, in the absence of any written record to the contrary, be deemed to meet and occupy a minimum right-of-way width of thirty (30) feet. A***[~~wide, but the~~] fiscal court***, an urban-county government,*** or a consolidated local government may order ***the minimum right-of-way***[~~it~~] to be a greater width. All roads added to the county through road system in a county containing a city of the first class or a consolidated local government in accordance with KRS 178.333 shall occupy a right-of-way width as ordered by the fiscal court or the consolidated local government.

(3) In acquiring a right-of-way for a county through road within any city, the fiscal court or the county court of a county containing a city of the first class or the consolidated local government may exercise any powers granted them by statute for the acquisition of property.

Section 4. KRS 178.070 is amended to read as follows:

The fiscal court may direct any county road to be discontinued. Notice must be published, according to the provisions of KRS 178.050, and in addition, notices must be placed at three (3) ***prominent and visible*** public places ***within one (1) mile***[~~in the vicinity~~] of the road. After[~~ the~~] posting ***the***[~~of~~] notices[~~ as aforesaid~~], the fiscal court shall appoint two (2) viewers who ***have no vested interest in the discontinuance of the road and who***, together with the county road engineer, shall view the road and report in writing at the hearing what inconvenience would result from the discontinuance. Upon ***presentation of the***[~~such~~] report and other evidences, if any, ***at a public meeting of the fiscal court,*** the court may discontinue the road.

Section 5. KRS 178.080 is amended to read as follows:

(1) When any person desires the establishment or alteration of a public road, bridge or landing, he shall petition the fiscal court setting forth in his petition specifically the nature and location of the proposed work. The court shall thereupon appoint two (2) viewers who, together with the county road engineer, shall view the ground and report in writing the advantages and disadvantages which, in their opinion, will result to the individual and to the public from the proposed work and the grades and bearings of the proposed road, and other facts and circumstances that may enable the fiscal court to determine whether the work ought to be undertaken by the county.

(2) If the petition is for the establishment or alteration of a public road leading from a main public road, the report shall set out whether such road should be established, stating specifically whether it would be necessary to take any burying ground, garden, yard, orchard, or any part thereof, or to injure or destroy any buildings and the probable cost of the work, the names of the landowners whose property would have to be taken or injured, which of them would require compensation and the probable amount to which each would be entitled. They shall make careful examination of routes or locations other than that proposed or petitioned for, keeping in view the possible future development of the county and the accommodations of the general traveling public, and shall report ***to the fiscal court at a public meeting*** in favor of the one they prefer, giving reasons for the preference. A map giving the grades and bearings of the routes or locations shall be returned with the report.

(3) If it appears to the fiscal court that the interests of the general public may be furthered thereby, the fiscal court shall personally examine the proposed work. If the court decides to undertake the proposed work the county judge/executive shall appoint a day for hearing the parties interested, and cause notices thereof to be given to all interested parties.

(4) If the county judge/executive at any time has sufficient evidence before him to enable him to ascertain what would be a just compensation to the proprietors and tenants, and if the proprietors and tenants are willing to accept what the county judge/executive deems just, the county judge/executive, upon such acceptance being reduced to writing and signed by the proprietors and tenants, may determine to undertake the work, subject to the consent and approval of the fiscal court.

Section 6. KRS 178.100 is amended to read as follows:

From a decision of the fiscal court ordering a new road to be opened, or ordering an alteration or discontinuance of an existing road, or allowing gates to be erected across a road or abolishing existing gates, or a decision refusing any such order, the party aggrieved may bring an action in the Circuit Court ***of the county where the road is located*** to contest the decision of the fiscal court.

Section 7. KRS 178.115 is amended to read as follows:

(1) Whenever the fiscal court of any county deems it to be in the best interest of ***the***[~~such~~] county to open, establish or alter the location of any public road, street, alley, ditch, culvert, bridge or similar public way or structure in ***the***[~~such~~] county, ***the***[~~said~~] fiscal court shall adopt a resolution setting forth the necessity for ***the***[~~such~~] public road or structure, and thereupon ***the***[~~such~~] public road or structure shall be deemed opened, established or altered, as the case may be, on behalf of the county. A certified copy of ***the***[~~said~~] resolution[~~ or order~~] shall be posted at the courthouse door of the county within five (5) days after its adoption and a certified copy of ***the***[~~said~~] resolution shall be posted by the county road engineer of the county along or at the proposed road or structure within five (5) days after its adoption.

(2) In all cases where[~~ such~~] public roads or structures have been established, any person or persons aggrieved thereby may prosecute an appeal from ***a***[~~ such order or~~] resolution of the fiscal court by filing a petition in equity in the Circuit Court of the county ***where the road or structure is located*** setting forth his grievance, to which petition shall be attached an attested or certified copy of ***the***[~~such order or~~] resolution. ***The***[~~Such~~] petition shall be filed within thirty-five (35) days from the date ***the***[~~such order or~~] resolution was entered. ***An***[~~Such~~] appeal shall be heard and decided by the court without the intervention of a jury. Any party so appealing shall execute and file a bond for costs at the time such appeal is taken. An appeal to the Court of Appeals may be taken in accordance with the Rules of Civil Procedure.

Section 8. KRS 178.117 is amended to read as follows:

(1) Any person or corporation, public or private, or any group of such persons or corporations or both, residing in or owning property adjacent to any publicly dedicated road in unincorporated territory in ***any***[~~a~~] county ***and***[~~containing a city of the first class or consolidated local government~~] desiring to make any improvements to the publicly dedicated road shall submit to the fiscal court***, the urban-county government,*** or the consolidated local government for approval plans and specifications for its improvements at their own expense. Any[~~ such~~] request for private improvement shall include all the information required by KRS 184.020 to accompany a request for the creation of a public road district pursuant to that section.

(2) The sponsors of the private improvement of the publicly dedicated road shall present their request, together with the attached maps and estimates of cost, to the fiscal court***, the urban-county government,*** or the consolidated local government, who shall turn over to the county engineer for his ***or her*** consideration the maps and estimates of cost. In considering whether to permit the requested improvement, the fiscal court, ***the urban-county government,*** or the consolidated local government, and the county engineer shall follow the same procedures provided for in KRS 184.040 and the same appellate rights provided for in these sections are available to the petitioners. When the county engineer receives from the fiscal court***, the urban-county government,*** or the consolidated local government an application for approval of plans or specifications for the private improvement of publicly dedicated roads by some individual or corporation, or a combination thereof, the county engineer shall be authorized and empowered to examine, inspect, and investigate, as seems to be advisable, the sufficiency of the improvements which the application seeks to serve the purposes intended, and to establish and make reasonable charges for ***his or her***[~~such~~] services on the basis of a schedule adjusted according to the services required to ***conduct the***[~~make such~~] investigation or on any other reasonable method.

(3) When it appears to the county engineer that the completion of the improvement by or on behalf of any[~~ such~~] individual or corporation requires inspection and supervision in order to assure the protection of the public safety and the proper subsequent completion of ***the***[~~such~~] work for the purposes intended, the county engineer shall include[~~ such~~] findings in his ***or her*** recommendation to the fiscal court***, the urban-county government,*** or the consolidated local government approving, modifying, or disapproving the particular plans and projects, and shall charge ***the***[~~such~~] person or corporation for ***the***[~~such~~] inspection and supervision on the basis of the actual cost of inspection plus a reasonable additional cost of supervision.

Section 9. KRS 178.405 is amended to read as follows:

When any private road, street, or highway[~~ established prior to February 12, 1969,~~] in an unincorporated area in ***any***[~~a~~] county[~~ containing a city of the first class or a consolidated local government, which area is not within the jurisdictional boundaries of a city of the second through sixth classes of cities,~~] has been used by the general public openly, continuously, and notoriously for a period of at least fifteen (15) years, it shall be implied that such road, street, or highway may be dedicated to public use; Provided, that fifty-five percent (55%) of all property owners abutting the private road, street, or highway sign a petition stating that they are willing to dedicate the road, street, or highway to public use.

Section 10. KRS 178.415 is amended to read as follows:

When the fiscal court has made a determination in accordance with the provisions of KRS 178.410 that the road, street, or highway has been dedicated to public use, the county shall have a fee simple title to the part of the road, street, or highway which the plat, filed in the office of the county clerk, indicates as being for street purposes. However, if the road, street, or highway is dedicated in accordance with the provisions of KRS 178.405, and a plat does not exist, then the fiscal court shall establish a ***thirty (30)***[~~fifty (50)~~] foot minimum width as a condition precedent to dedication to public use***, unless the fiscal court finds that a thirty (30) foot minimum cannot be met due to the topography of the road or other extraordinary circumstances***.

Section 11. The following KRS section is repealed:

178.155 Effect of lack of maintenance of road by county for fifteen years.

HB 365, AN ACT relating to traffic regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.214 is amended to read as follows:

(1) As used in this section:

(a) "Appurtenances" means the following devices that do not extend beyond ***the maximum vehicle width as established in subsection (2) of this section by more than*** six (6) inches on either side of a ***recreational vehicle***[~~travel trailer~~]:

1. Hand holds for entry or egress;
2. Load-induced tire bulge;
3. Rearview mirrors;
4. Splash and spray suppressant devices;[~~ and~~]
5. Turn signal lamps; ***and***
6. ***Shade awnings and their mounting hardware;***

(b) "Recreational vehicle" has the meaning set forth in KRS 186.650(4); and

(c) "Width exclusion safety devices" means the following devices that do not extend beyond ***the maximum vehicle width as established in subsection (2) of this section by more than*** three (3) inches on either side of a ***recreational vehicle***[~~travel trailer~~]:

1. Corner caps;
2. Lift pads;
3. Rear or side door hinges and protective hardware;
4. Rain gutters;
5. Side marker lamps;
6. Tarps and tarp hardware; and
7. Wall variations from a true flat.

(2) A recreational vehicle that is one hundred two (102) inches in width and is registered under KRS 186.050, 186.655, or an equivalent statute from another state shall have access to any public state-maintained highway in Kentucky and the vehicle's appurtenances and width exclusion safety devices shall not exceed the limits defined in this section. A recreational vehicle shall not exceed established weight limits on Kentucky highways without first obtaining an overweight permit issued under this chapter.

HB 384, AN ACT relating to highway signs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Local government" means:

1. Any city organized and governed under KRS Chapter 83 or 83A;
2. Any urban-county government organized and governed under KRS Chapter 67A;
3. Any consolidated local government organized and governed under KRS Chapter 67C; and
4. All of Kentucky's one hundred twenty (120) counties; and

(b) "Motorcycle awareness signs" means signs that increase the awareness of the traveling public to the possible presence of motorcycles and which are erected in the highway right-of-way of any highway that is part of the state primary road system established under KRS 177.020.

(2) All statutes to the contrary notwithstanding, the cabinet shall permit any local government, subject to the provisions of subsection (4) of this section, to erect motorcycle awareness signs.

(3) The cabinet may, in addition to authorizing a local government to erect motorcycle awareness signs, also erect motorcycle awareness signs.

(4) Any local government wanting to erect motorcycle awareness signs shall submit written notice to the cabinet. The notice shall identify the routes and the specific location on the routes where motorcycle awareness signs will be erected. If the cabinet determines that any location identified in the notice would pose a traffic safety hazard, the cabinet shall suggest an alternative location for the placement of the motorcycle awareness signs.

(5) The signs authorized to be erected under this section shall consist of two (2) signs. The upper sign shall be diamond shaped with a motorcyclist pictured on the sign. A second rectangular sign shall be placed directly below the diamond

shaped sign and contain the words "Share the Road". The signs shall be fluorescent yellow-green in color and meet the standards for retroreflectivity and illumination established in the "Manual on Uniform Traffic Control Devices" published by the United States Department of Transportation, Federal Highway Administration.

HJR 69, A JOINT RESOLUTION naming the John C. Cline Memorial Bridge in Martin County.

WHEREAS, John C. Cline, the son of Herbert B. and Nola Penix Cline, was born December 2, 1912, in Martin County, Kentucky; and

WHEREAS, John C. Cline attended school in Inez, Kentucky, until his father took a job and moved the family to West Virginia; and

WHEREAS, John C. Cline is regarded by many as the father of the mining industry in Martin County through his tenacity in expanding markets for steam coal and his operation of Wolf Creek Collieries; and

WHEREAS, the Wolf Creek Collieries, established in the 1960s by Cline with 30 employees, grew to be one of the largest employers in Martin County, employing over 400 individuals; and

WHEREAS, John C. Cline made the Wolf Creek Collieries a success because it operated as a high-tonnage, low-cost operation; and

WHEREAS, John C. Cline worked tirelessly to reduce the isolation of Martin County, evidenced by his efforts to have a bridge constructed on Kentucky Route 292 over Wolf Creek and his donation of his own property to the state to construct the road; and

WHEREAS, prior to the completion of Kentucky Route 292, Martin Countians would often have to go to West Virginia in order to get to the other side of Wolf Creek and northwestern Pike County; and

WHEREAS, John C. Cline, who was preceded in death by his wife Mildred, was the proud father of five children: Janet Cornette, Larry Cline, Carroll Sexton, Karen Mills, and Marsha Paula, four of whom are active or retired educators; and

WHEREAS, John C. Cline was an institution in Martin County, a place he dearly loved and spent his entire life; and

WHEREAS, John C. Cline left Martin County a better place, and throughout the county, his good name stands on its own merit;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name the bridge number B00013 on Kentucky Route 292, which crosses the Wolf Creek in Martin County, the "John C. Cline Memorial Bridge."

Section 2. The Transportation Cabinet shall, within thirty (30) days of the effective date of this Resolution, erect signs at each end of the bridge identified in Section 1 of this Resolution that read "John C. Cline Memorial Bridge."

HJR 90, A JOINT RESOLUTION naming the "Tom Christerson Memorial Highway" in Muhlenberg County.

WHEREAS, on September 13, 2001, Tom Christerson of Central City, Kentucky, a retired tire dealer, became just the second person in the world to receive an experimental AbioCor artificial heart; and

WHEREAS, Tom Christerson's willingness to participate in a clinical trial of a new and potentially breakthrough device helped doctors gather information that will benefit other patients for years to come; and

WHEREAS, Tom Christerson repeatedly exceeded all expectations surrounding his transplant by moving from the hospital to an adjacent residential facility, and then, seven months after his transplant, moving back to his home in Central City; and

WHEREAS, this revolutionary procedure also paid priceless dividends of time to Mr. Christerson; he was able to celebrate his 55th wedding anniversary with his wife Speedy and hold his first great-grandchild after he received the device; and

WHEREAS, sadly, after living with the AbioCor device longer that any other recipient, on February 7, 2003, Tom Christerson passed away when the lifesaving artificial heart implanted in his chest 17 months earlier simply wore out; and

WHEREAS, Tom Christerson's surgeon, Dr. Robert Dowling, summed up the contributions of his patient in saying, "His pioneering spirit will help many through future advancements in the treatment of heart disease....He was a medical pioneer and a true friend to all of us..."; and

WHEREAS, Tom Christerson himself said of his role in history, "This trial is not about me; this is about my children, my grandchildren, my great-grandchildren, and children for years to come"; and

WHEREAS, Tom Christerson's giving nature lives on through the Tom Christerson & Family Nursing Scholarship Fund, established to recognize the outstanding nursing care that Mr. Christerson received at Jewish Hospital and to be used to train nurses in the cardiovascular field; and

WHEREAS, Tom Christerson's passing is mourned not only by his wife, his two children, Ken Christerson and Patti Pryor, and his grandchildren and great-grandchildren, but by all of his friends in Central City and by millions of Kentuckians who came to know this gentle man whose life advanced the cause of science;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this body, both individually and collectively, posthumously honor Tom Christerson as an outstanding citizen of the Commonwealth, and join his family in mourning his passing.

Section 2. The Transportation Cabinet shall name Kentucky Route 70 from the intersection with Reservoir Street in Central City (Kentucky Route 277) to the Hopkins County line the "Tom Christerson Memorial Highway."

Section 3. The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs at appropriate intervals along the route specified in Section 2 of this Resolution that read "Tom Christerson Memorial Highway."

The Committee on Agriculture and Small Business reported **HB 441, HB 444,** and **HCR 114** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 441, AN ACT relating to licensing veterinarians.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 321.211 is amended to read as follows:

(1) Each person licensed as a veterinarian shall~~[annually]~~, on or before September 30 *of each even-numbered year*, pay to the board a renewal fee to be promulgated by administrative regulation of the board for the renewal of his license. All licenses not renewed by September 30 of each *even-numbered* year shall expire based on the failure of the individual to renew in a timely manner.

(2) A sixty (60) day grace period shall be allowed after September 30, *as required for renewal in subsection (1) of this section,* during which time individuals may renew their licenses upon payment of the renewal fee plus a late renewal fee as promulgated by administrative regulation of the board. All licenses not renewed by November 30 shall terminate based on the failure of the individual to renew in a timely manner. Upon termination, the licensee is no longer eligible to practice in the Commonwealth.

(3) After the sixty (60) day grace period, individuals with a terminated license may have their licenses reinstated upon payment of the renewal fee plus a reinstatement fee as promulgated by administrative regulation of the board. No person who applies for reinstatement after termination of his license shall be required to submit to any examination as a condition for reinstatement, if reinstatement application is made within five (5) years from the date of termination.

(4) A suspended license is subject to expiration and termination and shall be renewed as provided in this chapter. Renewal shall not entitle the licensee to engage in the practice until the suspension has ended, or is otherwise removed by the board and the right to practice is restored by the board.

(5) A revoked license is subject to expiration or termination but may not be renewed. If it is reinstated, the licensee shall pay the reinstatement fee as set forth in subsection (3) of this section and the renewal fee as set forth in subsection (1) of this section.

(6) A person who fails to reinstate his license within five (5) years after its termination may not have it renewed, restored, reissued, or reinstated. A person may apply for and obtain a new license by meeting the current requirements of this chapter.

(7) The board may require that a person applying for renewal or reinstatement of licensure show evidence of completion of continuing education as prescribed by the board by administrative regulation.

HB 444, AN ACT relating to agritourism.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 247.800 TO 247.810 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Charge" means the admission price or fee asked in return for invitation or permission to enter or go upon an agritourism operation, but does not include fees for general use permits issued by a government agency for access to public lands if the permits are valid for a period of not less than thirty (30) days;

(b) "Land" means land, roads, water, watercourses, private ways and buildings, structures, and machinery or equipment when attached to the realty; and

(c) "Owner" means the possessor of a fee, reversionary, or easement interest, a tenant, lessee, occupant, or person in control of the premises.

(2) The purpose of this section is to encourage the growth of the agritourism industry by limiting the liability of persons who have agritourism operations.

(3) Except as provided in subsection (5) of this section:

(a) An owner of an agritourism operation owes no duty of care to keep the premises safe for entry or use by others

for agritourism purposes, or to give any warning of a dangerous condition, use, structure, or activity on the premises to persons entering for agritourism purposes; and

(b) An owner of an agritourism operation who either directly or indirectly invites or permits, without charge, any person to use the property for agritourism purposes does not:

1. Extend any assurance that the premises are safe for any purpose;

2. Confer upon the person the legal status of an invitee or licensee to whom a duty of care is owed; or

3. Assume responsibility for or incur liability for any injury to person or property caused by an act or omission of those persons.

(4) Unless otherwise agreed in writing, the provisions of subsection (3) of this section shall be deemed applicable to the duties and liability of an owner of land leased to the state or any subdivision of the state for agritourism purposes.

(5) Nothing in this section limits in any way liability which otherwise exists:

(a) For willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity; or

(b) For injury suffered in any case where the owner of an agritourism operation charges the person who enters the agritourism operation, except that in the case of land leased to the state or a subdivision of the state, any consideration received for the lease shall not be deemed a charge within the meaning of this section.

(6) Nothing in this section shall be construed to:

(a) Create a duty of care or ground of liability for injury to persons or property;

(b) Relieve any person using the land of another for agritourism purposes from any obligation which he may have in the absence of this section to exercise care in his use of the land and in his activities on the land, or from the legal consequences of failure to employ that care; or

(c) Ripen into a claim for adverse possession, absent a claim of title or legal right.

(7) No action for the recovery of real property, including establishment of prescriptive easement, right-of-way, or adverse possession, may be brought by any person whose claim is based on use solely for agritourism purposes.

HCR 114, A CONCURRENT RESOLUTION urging the Division of Conservation to give greater consideration to unsuccessful previous applicants for Soil Erosion and Water Quality Cost Share funds.

WHEREAS, the Soil Erosion and Water Quality Cost Share Program was established by the 1994 General Assembly to assist landowners in addressing environmental and natural resource problems associated with farming operations; and

WHEREAS, more than four thousand Kentucky landowners have been assisted in undertaking 51 million dollars of best management practices during the 10 years of this program, resulting in significant environmental benefits and protection of Kentucky's natural resources; and

WHEREAS, despite this success, over ten thousand applicants have been turned down for cost share assistance because of limited funding; and

WHEREAS, some landowners apply repeatedly, year after year, without success;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Division of Conservation is urged to grant additional scoring points to unsuccessful previous applicants for the Soil Erosion and Water Quality Cost Share Program.

Section 2. A copy of this Resolution shall be forwarded to Mr. Stephen A. Coleman, Director of the Division of Conservation at 663 Teton Trail, Frankfort, Kentucky 40601.

Calendar

HB 81, 176, 178, 434, 324, 362, 420, 112, 161, 264, 314, 371, 410, and **445** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Senate Message

Announcing passage: **SB 28, 72, 85,** and **104** (2:10 p.m.)

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 81, 161, 176, 178, 264, 314, 362, 420, 445, 9, 85, 261,** and **HJR 7** have been posted for passage in the Regular Orders of the Day for February 13, 2004.

The Committee on Rules reported that the following Bill has been recommitted:

Appropriations and Revenue: **HB 434**

Orders of the Day

HB 388, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of the Committee Substitute to **HB 388**. Agreed.

Representative Wayne moved that **HB 388**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 49, Nays 37**. (See February 12, 2004, roll call on **HB 388** - Appendix.)

HB 388, by way of Committee Substitute, was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 388**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 412 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved that **HB 412** be passed.

On the roll call the vote was: **Yeas 90, Nays 4**. (See February 12, 2004, roll call on **HB 412** - Appendix.)

HB 412 was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 412** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 43 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Denham moved that **HJR 43** be adopted.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 12, 2004, roll call on **HJR 43** - Appendix.)

HJR 43 was adopted.

Representative Denham moved that the vote by which **HJR 43** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 162, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Substitute to **HB 162**. Agreed.

Representative Moberly moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 162**. Agreed.

Representative Moberly moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 162**. Agreed.

Representative Moberly moved that **HB 162**, by way of committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See February 12, 2004, roll call on **HB 162** - Appendix.)

HB 162, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 162**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 369, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved the adoption of the Committee Substitute to **HB 369**. Agreed.

Representative Damron moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 369**. Agreed.

Representative Collins moved that **HB 369**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See February 12, 2004, roll call on **HB 369** - Appendix.)

HB 369, by way of Committee Substitute, as amended, as passed and the title agreed to.

Representative Collins moved that the vote by which **HB 369**, by way of Committee Substitute, as amended, as passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins moved that **HJR 113** be reassigned to the Committee on Economic Development. Agreed.

Representative Adkins moved that **HB 172** be recommitted to the Committee on Transportation. Agreed.

Representative J. Arnold moved the adoption of the following **Legislative Citation No. 38**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Shelby Beth Arnold upon visiting the Capitol in Frankfort, Kentucky, to serve as a Personal Page in the Kentucky House of Representatives and to view this day's activities during the 2004 Regular Session of the Kentucky General Assembly. Inasmuch as this esteemed young honoree has demonstrated a forthright interest in learning more about the history and legislative process of the Commonwealth of Kentucky, this honorable body is pleased to join with Representative John A. Arnold, Jr. in graciously welcoming his cherished niece to the House Chambers and in extending best wishes for her continued success and good fortune. Done in Frankfort, Kentucky, this twelfth day of February, in the year two thousand and four.

Legislative Citation No. 38 was adopted without objection.

Representative Draud moved the adoption of the following **Legislative Citation No. 37**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory and honor of Dick Von Hoene and joins with Representative Jon E. Draud in expressing deepest sympathy to the Von Hoene Family and all who share in the profound loss on the passing of this esteemed citizen. The son of the late Harry Frederick and Margaret Carolyn Fischer Von Hoene, he is survived by his beloved daughters, Vanessa and Vickie; siblings, Margaret, Mary Ellen, Frank, and Thomas; grandsons, Cameron and Christian; and, a host of other family members, friends and loved ones. Most widely recognized for his portrayal of the beloved "Cool Ghoul," character that regularly hosted horror movies every weekend on WXIX-TV from 1969 until 1972, Mr. Von Hoene also served as a reporter and disc jockey for WUBE 105 and was a news announcer for WFKB in Florence, Kentucky. In 1987, he was hired by Insight Communications to serve as News Director but would go on to host the popular Northern Kentucky Magazine television show, a talk-variety program, for 12 years. During his time on the show, he remained committed to promoting the community, interviewing countless representatives of counties, cities, schools, and charitable organizations about their missions and activities, as well as numerous celebrities. His phenomenal skill as a host and interviewer and dedication to the community earned the show several accolades and that, along with his history in radio and television, earned him a place in the Greater Cincinnati Legends of Rock & Roll Hall of Fame. Inasmuch as Dick Von Hoene was beloved by so many as a result of his lifelong humor, generosity, and dedication to his fellow man, this esteemed citizen is remembered on this day for the many and generous contributions he made to his family, friends, and community. Dick Von Hoene will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, Kentucky, this twelfth day of February, in the year two thousand and four.

Legislative Citation No. 37 was adopted without objection.

Representative Draud moved the adoption of the following **Legislative Citation No. 36**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory and honor of Gentry Aubrey and joins with Representative Jon E. Draud and Representative Charles R. Walton in expressing deepest sympathy to the Aubrey Family and all who share in the profound loss on the tragic and untimely passing of this esteemed young citizen. The beloved son of Connie Lafaivre and David Aubrey, he is survived by his beloved fiancee, Chrissy Dunn; step-father, Peter Lafaivre; three step-siblings; grandparents, Robert and Lois Silvanik and Mrs. John Aubrey; step-grandparents, Francis and Marjorie Lafaivre; and, a host of other family members, friends and loved ones. A graduate of Conner High School in Burlington, Kentucky, Mr. Aubrey received a full scholarship to attend the Northern Kentucky University Salmon P. Chase College of Law and was in his second year of study. In addition, he was vice-president of the school's law fraternity; was co-captain, along with his fiancee, of Chase's moot court team; served as a clerk in the Cincinnati law firm of Waite, Schneider, Bayless, and Chesley; and, hoped to become an attorney, possibly in the sports industry. Inasmuch as the precious life of this esteemed young citizen was cut so tragically short, he is remembered on this day with great sorrow for the brevity of his journey on this earth and with profound reverence for the joy that his presence brought to his family and friends. Gentry Aubrey will be deeply missed by all those whose good fortune it was to know him. Done in Frankfort, Kentucky, this twelfth day of February, in the year two thousand and four.

Legislative Citation No. 36 was adopted without objection.

Representative Adkins moved that the rules be suspended for introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 493, by Representative Nunn: AN ACT relating to nonsmoking in public areas of the Capitol and Capitol Annex.

HB 494, by Representative Callahan: AN ACT relating to omitted property.

HB 495, by Representative J. Lee: AN ACT relating to commercial drivers.

HB 496, by Representative Brinkman: AN ACT relating to the state autism training center.

HB 497, by Representatives Webb, Nunn, and Pasley: AN ACT relating to heating, ventilation, and air conditioning and making an appropriation therefor.

HB 498, by Representative Simpson: AN ACT relating to delinquent property taxes.

HB 499, by Representatives Webb, Cornett, Couch, Nelson, Jenkins, Hoffman, Hall, A. Smith, Yonts, Napier, B. Smith, and Stewart: AN ACT relating to workers' compensation.

HB 500, by Representatives Gooch, Bruce, Hall, Edmonds, J. Arnold, Nesler, Ballard, Damron, A. Smith, Nelson, Collins, Bather, Weaver, Belcher, Geveden, P. Clark, Thomas, Gray, Stacy, Higdon, Dw. Butler, and Reinhardt: AN ACT relating to juror pay.

HB 501, by Representative Haydon: AN ACT relating to sales and use taxes.

HB 502, by Representatives Stacy and Hall: AN ACT relating to Medicaid.

HB 503, by Representatives Crimm, Jenkins, Riggs, Weaver, and Marzian: AN ACT relating to local government insurance premium taxes.

HR 145, by Representatives Pasley and Richards: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Paul W. Richardson Sr.

HCR 144, by Representative Baugh: A CONCURRENT RESOLUTION requesting the Interim Joint Committee on Local Government to review local planning requirements for subdivisions.

HR 146, by Representative Brinkman: A RESOLUTION adjourning the House of Representatives in honor of Whitten Montgomery.

HJR 147, by Representative A. Arnold: A JOINT RESOLUTION naming Kentucky Route 11 in Montgomery and Powell Counties "The Veterans Highway."

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Agriculture and Small Business: **HB 140**

Labor and Industry: **HB 130, 132, 360**

Seniors, Military Affairs, and Public Safety: **HB 379, 435, 436, 454, 460**

Motions, Petitions, and Communications (Continued)

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "nay" on **HB 388**. Agreed.

Representative Yonts moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Yonts moved that he be recorded as voting "yea" on **HB 162**. Agreed.

Representative Stacy moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Stacy moved that he be recorded as voting "yea" on **HB 260**. Agreed.

Representative Horlander moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Horlander moved that he be recorded as voting "yea" on **HB 260**. Agreed.

Representative Brinkman moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Brinkman moved that he be recorded as voting "yea" on **HB 388**. Agreed.

Representative P. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative P. Clark moved that he be recorded as voting "yea" on **HB 388**. Agreed.

Representative Webb moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Webb moved that she be recorded as voting "yea" on **HB 106, 100, 183, HJR 98, 54,** and **82**. Agreed.

Floor Amendments

Floor Amendment No. 1 to **HB 410**, by Representative Hoover:

HB 410, On page 3, after line 6, insert the following:

"*(8) The provisions of subsection (6)(a)3. of this section shall be retroactive and shall apply to persons convicted before, on, or after the effective date of this section. Any person no longer covered by the provisions of subsection (6)(a) of this section after the effective date of this Act shall not have to register as a sex offender unless he or she is required to register as a sex offender pursuant to another provision of law. A person who is registered as a sex offender who believes that he or she is no longer required to register as a sex offender pursuant to the provisions of this section shall apply to the deputy commissioner of Local Facilities and Community Services of the Department of Corrections for a document indicating that the person is no longer required to register as a sex offender. Following a record check and any other verification of identity as is necessary, the deputy commissioner of Local Facilities and Community Services of the Department of Corrections shall notify the applicant in writing as to whether or not the applicant is no longer required to register as a sex offender. The Department of Corrections shall promulgate administrative regulations relating to the application process and a process for appealing a determination that the applicant is still required to register as a sex offender.*"

Floor Amendment No. 1 to **HCR 134**, by Representative J. Adams:

HCR 134, On page 1, line 3 by inserting "for the 2002-2003 school year" in front of "including".

Floor Amendment No. 9 to the Committee Substitute to **HB 372**, by Representative Nunn:

HB 372, On page 5, line 4, after "***coverage to***" by inserting "***small employers, associations, or***"; and

On page 5, line 4, after "***shall***" by inserting "***, upon request,***"; and

On page 5, line 5, by deleting "***such employer-organized associations***" and inserting in lieu thereof "***any such small***

employer, association, or employer-organized association"; and

On page 5, line 6, by deleting "***all designated***" and inserting in lieu thereof "***any***"; and

On page 5, line 7, after "***include***" by inserting "***coverage for atypical and typical antipsychotic medications that are prescribed for the treatment of mental illness and prescription drugs prescribed for the treatment of the human immunodeficiency virus or acquired immunodeficiency syndrome and***"; and

On page 11, insert the following after line 18:

"SECTION 9. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Any insurer issuing, offering, or renewing an individual or group health benefit plan in the Commonwealth after the effective date of this Act shall not restrict or deny access to any medication approved by the Federal Food and Drug Administration as safe and effective, and determined by a physician, physician assistant, or advanced registered nurse practitioner to be medically necessary for the treatment of the following:

(1) Atypical and typical antipsychotic medications that are prescribed for the treatment of a mental illness; or

(2) Prescription drugs that are prescribed for the treatment of the human immunodeficiency virus or acquired immunodeficiency syndrome, including but not limited to protease inhibitors and antiretroviral medications.".

Floor Amendment No. 1 to **HB 456**, by Representative Damron:

HB 456, On page 4, line 20, after "***program***", by inserting "***or osteopathic school program***";

On page 4, line 21, after "***program***", by inserting "***or osteopathic school***";

On page 7, line 21, after "***medical***", by inserting "***or osteopathic***";

On page 7, line 23, after "***medicine***", by inserting "***or school of osteopathy***";

On page 7, line 24, after "***medicine***", by inserting "***or osteopathy***";

On page 8, line 7, after "***medicine***", by inserting "***or osteopathy***";

On page 8, line 8, after "***medicine***", by inserting "***or osteopathy***";

On page 12, line 9, after "***for***", by deleting "***a license***" and inserting "***certification***" in lieu thereof.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 92, Representatives Hall and Weaver

HB 96, Representative Pullin

HB 135, Representative Pullin

HB 262, Representative Gray

HB 273, Representative Riggs

HB 384, Representative Hall

HB 443, Representative Harper

HB 475, Representative Higdon

HB 488, Representative Farmer

HB 499, Representative Gray

HCR 8, Representative Pullin

HR 139, Representatives T. Thompson, Bratcher, Embry, Nunn, Higdon, Richards, Haydon, and Sims

The following member filed a request to have his name withdrawn as co-sponsor of a Bill:

HB 488, Representative Miller

Announcements

The following meetings were announced:

Committee on Labor and Industry: Tuesday, February 17, 2004, 2:00 p.m., Room 125

Committee on Seniors, Military Affairs, and Public Safety: Tuesday, February 17, 2004, upon adjournment, Room 149

Budget Review Subcommittee on Human Resources: upon adjournment, Room 149

Committee on State Government: Tuesday, February 17, 2004, 2:00 p.m.

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 9:00 a.m., Friday, February 13, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 9:00 a.m., Friday, February 13, 2004, was adopted by voice vote.

FRIDAY, FEBRUARY 13, 2004

TWENTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Brother Bobby Hollon, First Church of God, Jackson, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Bather, Cherry, Coleman, Crenshaw, Damron, Haydon, Marzian, and Nunn.

Sarah Hurt sang.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 12, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 504, by Representative Ballard: AN ACT relating to trespass on retail or commercial premises.

HB 505, by Representative Ballard: AN ACT relating to tax credits for purchase of coal combustion by-product.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 494, 498, 501**

Education: **SB 28**

Health and Welfare: **HB 496, 502**

Judiciary: **HB 500, SB 72**

Labor and Industry: **HB 499**

Licensing and Occupations: **HB 497**

Local Government: **HB 503, HCR 144**

State Government: **HB 493**

Transportation: **HB 495, HJR 147, SB 85, 104**

House Floor: **HR 145, HR 146**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Judiciary: **HB 407**

Calendar

HB 428, 376, 456, 71, 92, 199, 365, 384, HJR 69, 90, HB 441, 444, and **HCR 114** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Senate Message

Announcing passage: **SB 80** and **124** (9:10 a.m.)

Orders of the Day

HB 420, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Belcher moved the adoption of the Committee Substitute to **HB 420**. Agreed.

Representative Belcher moved that **HB 420**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 74, Nays 13**. (See February 13, 2004, roll call on **HB 420** - Appendix.)

HB 420, by way of Committee Substitute, was passed and the title agreed to.

Representative Belcher moved that the vote by which **HB 420**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 362, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jenkins moved the adoption of the Committee Substitute to **HB 362**. Agreed.

Representative Jenkins moved that **HB 362**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 69, Nays 17**. (See February 13, 2004, roll call on **HB 362** - Appendix.)

HB 362, by way of Committee Substitute, was passed and the title agreed to.

Representative Jenkins moved that the vote by which **HB 362**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 445 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 445** be passed.

On the roll call the vote was: **Yeas 86, Nays 1**. (See February 13, 2004, roll call on **HB 445** - Appendix.)

HB 445 was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 445** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative J. Arnold moved that the rules be suspended to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 148, by Representative J. Arnold: A RESOLUTION adjourning the House of Representatives in honor of Mary Elizabeth Preston upon the occasion of her 100th birthday.

Motions, Petitions, and Communications (Continued)

Representative J. Arnold moved the adoption of the following **HR 148**:

HR 148, A RESOLUTION adjourning the House of Representatives in honor of Mary Elizabeth Preston upon the occasion of her 100th birthday.

WHEREAS, Mary Elizabeth Preston was born on February 17, 1904, a native of Hopkins County, Kentucky, and longtime resident of Morganfield, Union County, Kentucky; and

WHEREAS, Mary Elizabeth Preston was the loving daughter of the late Squire Heady Follin and Virgie Ezel Follin; she was the devoted wife of the late James K. Preston; she was the loving mother of the late James K. Preston Jr.; she is the proud grandmother of a granddaughter, Ruth Helen Jones of Morganfield, and a grandson, Craig K. Preston of Uniontown; and the proud great-grandmother of Tamara S. Sturm, Shayne T. Spencer, Chad K. Preston, and Brooke K. Preston; and she is the proud great-great-grandmother of six great-great-grandchildren; and

WHEREAS, Mary Elizabeth Preston is a member of Morganfield Christian Church, and she resides with her loving granddaughter; all who have had the good fortune of knowing her through the years are indeed blessed, for she continues to radiate cheerfulness, is in good health, and she maintains an optimistic outlook on life; and

WHEREAS, on February 17, 2004, Mary Elizabeth Preston and her loving family will celebrate her 100th birthday;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby esteem it to be an honor and privilege to recognize Mary Elizabeth Preston upon the occasion of her 100th birthday on February 17, 2004, and we wish her continued good health and prosperity.

Section 2. When the House of Representatives adjourns this day, it does in honor of Mary Elizabeth Preston upon the occasion of her 100th birthday.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative John Arnold Jr. for presentation to Mary Elizabeth Preston.

There being no objection, **HR 148** was adopted.

Representative Adkins moved that the rules be suspended for introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 506, by Representative Lindsay: AN ACT relating to trusts.

HB 507, by Representative Crimm: AN ACT relating to refund of unearned insurance premium.

HB 508, by Representative Crimm: AN ACT relating to insurance.

HB 509, by Representative Crimm: AN ACT relating to the Kentucky Health Care Improvement Authority.

HB 510, by Representative Riggs: AN ACT relating to delinquent taxes in a newly-formed consolidated local government.

HB 511, by Representatives Miller, Jenkins, Graham, Crimm, Burch, L. Clark, and Hoffman: AN ACT relating to proof of motor vehicle insurance.

HB 512, by Representatives Geveden and Buckingham: AN ACT relating to public employee benefits.

HB 513, by Representative Geveden: AN ACT relating to retirement.

HB 514, by Representatives Miller, Hoffman, L. Clark, Horlander, Jenkins, Burch, and Graham: AN ACT relating to highway work zones.

HB 515, by Representative Westrom: AN ACT relating to university tuition for advanced degrees.

HR 149, by Representative Meeks: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Ruth Ann Wyatt.

HJR 150, by Representatives Pullin and Hall: A JOINT RESOLUTION directing the Office for the New Economy to study state-owned resources relating to broadband and cellular phone services and opportunities for public-private partnerships.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Tourism Development and Energy: **HJR 143, HB 317, 296**

Education: **HJR 129, HCR 134, HB 489, 483, 10,** and **HJR 135**

Motions, Petitions, and Communications (Continued)

Representative Crall moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crall moved that he be recorded as voting "nay" on **HB 362**. Agreed.

Representative Crall moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Crall moved that he be recorded as voting "yea" on **HB 420** and **445**. Agreed.

Floor Amendments

Floor Amendment No. 1 to **HJR 7**, by Representative Yonts:

HJR 7, On Page 2, in the fifth WHEREAS clause, after the word "Commonwealth;", by deleting the word "and"; and

On Page 2, staring with the sixth WHEREAS clause by deleting that clause and the remainder of the Resolution in its entirety and inserting the following in lieu thereof:

"NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name United States Route 25 E from Interstate 75 in Corbin to the Cumberland Gap Tunnel the "Daniel Boone Wilderness Trail."

Section 2. The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs that read "Daniel Boone Wilderness Trail" at each end of the route identified in Section 1 of this Resolution, and at appropriate levels in between.

Floor Amendment No. 2 Title to **HJR 7**, by Representative Yonts:

HJR 7, By amending the title to read "A JOINT RESOLUTION naming Unites States Route 25E from Corbin to the Cumberland Gap Tunnel the Daniel Boone Wilderness Trail."

Floor Amendment No. 1 to the Committee Substitute to **HB 9**, by Representative Adkins:

HB 9, On page 11, line 17, after the period, by inserting the following new Sections:

"Section 3. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee***, including District Court Trial Commissioners,*** of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided, and each member, officer, and

employee of the General Assembly shall be credited with a month of current service for each month he serves in the position;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he served in the position prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except that for members of the General Assembly, it shall mean an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the year. A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the employer. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4);

(14) "Final compensation" of a member means:

(a) For a member who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used; or

(b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance; or

(c) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). In the case of members of the General Assembly, the "final rate of pay" shall be the creditable compensation. The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the General Assembly for at least six (6) regular legislative sessions;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month***, or eighty (80) or more hours per month in the case of District Court Trial Commissioners,*** determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month***, or eighty (80) or more hours per month in the case of District Court Trial Commissioners,*** determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and

(e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;

(22) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person;

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;

(33) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable

phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

(34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543; and

(35) "Month" means a calendar month.

Section 4. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state-administered retirement systems who has been refunded his accumulated contributions under the provisions of KRS 16.645(22), 61.625, or 78.545(15), thereby losing service credit, may regain the credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system. The payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who did not elect membership in the County Employees Retirement System, as provided in KRS 78.540(2), may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(3) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who did not elect membership in the Kentucky Employees Retirement System, as provided in KRS 61.525(2), may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(4) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(5) (a) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(b) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for the period of his service with an area development district created pursuant to KRS 147A.050 or with a business development corporation created pursuant to KRS 155.001 to 155.230 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system in which he participates a delayed contribution payment, as determined by the board's actuary. The employee may obtain credit for employment with a business development corporation only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. Payment may be by lump sum or the employee may pay by increments.

(6) After August 1, 2000, service credit obtained under the subsections of this section which do not require the employee to have a minimum number of years of service credit to be eligible to make a purchase shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member if the member does not obtain for service performed six (6) months' additional current service credit in one (1) of the state-administered retirement systems. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 16.582 or 61.600.

(7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.

(8) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65) in the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not participate in a defined benefit or defined contribution retirement program at the university may obtain credit in the employee's account in the County Employees Retirement System, the Kentucky Employees Retirement

System, or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the County Employees, Kentucky Employees Retirement System, or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum, or the employee may pay by increments.

(9) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for the service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of the service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(11) Employees who served as assistants to officers and employees of the General Assembly who have at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems and who were unable to acquire service under KRS 61.510(20) may purchase credit for the service performed after January 1, 1960. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(12) (a) Effective August 1, 1988, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for interim, seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The cost will be determined as a delayed contribution payment for the period of time involved, which shall not be picked up by the employer as described in KRS 61.560(4).

(b) Any noncertified employee of a school board who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment may be by lump sum or the employee may pay by increments. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed credit only for those months he receives creditable compensation for eighty (80) hours of work. The cost will be determined as a delayed contribution payment, which shall not be picked up by the employer as described in KRS 78.610(4).

(c) Any District Court Trial Commissioner who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for part-time employment prior to the effective date of this Act which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis by paying to the Kentucky Employees Retirement System a delayed contribution payment, which shall not be picked up by the

employer as described in KRS 61.560(4). If the average number of hours of work is less than eighty (80) per month, the District Court Trial Commissioner shall be allowed credit only for those months he or she received creditable compensation for eighty (80) hours of work.

(13) A retired member, who is contributing to one (1) of the state-administered retirement programs under the provisions of KRS 61.637(1) to (4) and purchases service credit under this section in the system or systems from which he is retired, shall have his retirement allowance recomputed:

(a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(14) Any employee participating in one (1) of the systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for prior or current service for any period of approved educational leave, or for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, by paying to the respective retirement system a delayed contribution payment. The employee may also obtain credit for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, but only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for prior or current service for any period of approved maternity leave, unpaid leave authorized under the Federal Family and Medical Leave Act, or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by making installment payments in lieu of a lump-sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. Once multiple service purchases have been combined in an installment purchase, the employee may not separate the purchases or pay a portion of one (1) of the purchases. The employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal.

(b) One (1) year of installment payments shall be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total period allowed for installments shall not be less than one (1) year and shall not exceed five (5) years.

(c) The employee shall pay the installments by payroll deduction. Upon notification by the retirement system, the employer shall report the installment payments either monthly or semimonthly continuously over each twelve (12) month period at the same time as, but separate from, regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employee elects to stop the installment payments, dies, retires, or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have sixty (60) days to pay the remaining principal of the purchase by lump sum, except that payment by the member shall be made prior to the effective retirement date. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employee for sixty (60) days, except in the case of employees on military leave or sick leave without pay, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased. Installment payments of employees on military leave or sick leave without pay shall be suspended during the period of leave and shall resume without recalculation upon the employee's return from leave.

(g) If payments have ceased under paragraph (e) or (f) of this subsection and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

(17) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by transferring funds through a direct trustee-to-trustee transfer as permitted under the applicable sections of the Internal Revenue Code and any regulations or rulings issued thereunder, or through a direct rollover as contemplated by and permitted under 26 U.S.C. sec. 401(a)(31) and any regulations or rulings issued thereunder. Service credit may also be purchased by a rollover of funds pursuant to and permitted under the rules specified in 26 U.S.C. sec. 402(c) and 26 U.S.C. sec. 408(d)(3). The Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted under the rules specified in the applicable provisions of the Internal Revenue Code and any regulations and rulings issued thereunder. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.

(18) After August 1, 1998, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is age sixty-five (65) or older and has forty-eight (48) months of service credit or, if younger, who has sixty (60) months of service credit in systems administered by Kentucky Retirement Systems may purchase credit in the system in which the employee has the service credit for up to ten (10) years service in a regular full-time position that was credited to a state or local government-administered public defined benefit plan in another state other than a defined benefit plan for teachers. The employee shall pay a delayed contribution payment. Payment may be by lump sum, or the employee may pay by increments. The employee may transfer funds directly from the other state's plan if eligible to the extent permitted under subsection (17) of this section and to the extent permitted by the other state's laws and shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.

(19) After August 1, 1998, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has sixty (60) or more months of service in the State Police Retirement System or in a hazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System, may purchase credit in the system in which the employee has the sixty (60) months of service credit for up to ten (10) years of service in a regular full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592. The employee shall pay a delayed contribution payment. Payment may be by lump sum or by increments. The employee may transfer funds directly from the other unit of government's plan if eligible to the extent permitted under subsection (17) of this section and to the extent permitted by the other state's laws, and the employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.

(20) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems and who has completed service as a volunteer in the Kentucky Peace Corps, created by KRS 154.01-720, may purchase service credit for the time served in the corps by making delayed contribution payments.

(21) An employee participating in any retirement system administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems, and who was formerly employed in a regional community mental health and mental retardation services program, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system may obtain credit for the period of his service in the regional community mental health and mental retardation program, by paying to the state retirement system in which he participates a delayed contribution payment. Payment to one (1) of the retirement systems administered by the Kentucky Retirement Systems may be made by lump sum or in increments.

(22) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, who was employed by a vocational technical school in a noncertified part-time position averaging eighty (80) or more hours per month, determined by using the number of months actually worked within a calendar or fiscal year, may purchase service credit in the Kentucky Employees Retirement System. The cost of the service shall be a delayed contribution payment, which shall not be picked up by the employer as described in KRS 61.560(4).

(23) (a) Any person who is entitled to service credit for employment which was not reported in accordance with KRS 16.543, 61.543, or KRS 78.615 may obtain credit for the service by paying the employee contributions due within

six (6) months of notification by the system. No interest shall be added to the contributions. The service credit shall not be credited to the member's account until the employer contributions are received. If a retired member makes the payment within six (6) months, the retired member's retirement allowance shall be adjusted to reflect the added service after the employer contributions are received by the retirement system.

(b) Any employee participating in one (1) of the state-administered retirement systems who is entitled to service credit under paragraph (a) of this subsection and who has not repaid the employee contributions due within six (6) months of notification by the system may regain the credit after the six (6) months by paying to the system the employee contributions plus interest at the actuarially assumed rate from the date of initial notification under paragraph (a) of this subsection. Service credit shall not be credited to the member's account until the employer contributions are received by the retirement system. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(24) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems may purchase service credit for employment with a public agency that would have been eligible to participate under KRS 61.520 but which did not participate in the Kentucky Employees Retirement System or a political subdivision that would have been eligible to participate under KRS 78.530 but which did not participate in the County Employees Retirement System if the former public agency or political subdivision has merged with or been taken over by a participating department or county. The cost of the service shall be determined as a delayed contribution payment for the respective retirement system. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or KRS 78.610(4), by the employer.

(25) Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems prior to July 15, 2002, who has accrued at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems and who has total service in all state-administered retirement systems of at least one hundred eighty (180) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit which is not otherwise purchasable under any of the provisions of KRS 16.510 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852. The purchase price for the retirement service credit shall be calculated and paid for as a delayed contribution payment. The payment shall not be picked up, as described in KRS 16.545(4), KRS 61.560(4), KRS 78.610(4), by the employer, and the employee's payment shall be paid into the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by increments. The service purchased under this subsection shall not be used in determining a retirement allowance until the member has accrued at least two hundred forty (240) months of service, excluding service purchased under this subsection. If the member does not accrue at least two hundred forty (240) months of service, excluding service purchased under this subsection, upon retirement, death, or written request following termination, the payment, plus interest as provided in KRS 61.575, shall be refunded.

(26) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), in the systems administered by Kentucky Retirement Systems, may obtain credit in the County Employees Retirement System for the period of that employee's service with a community action agency created under KRS 273.405 to 273.453 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system a delayed contribution payment. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or 78.610(4), by the employer.

(27) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the retirement systems administered by the Kentucky Retirement Systems may obtain current service credit for up to forty-eight (48) months for his or her period of service as a Domestic Relations Commissioner by paying to the retirement system a delayed contribution payment no later than December 31, 2002. Payment may be made by lump sum or under an installment agreement. The payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(28) The board of trustees is authorized to establish a program, subject to a favorable ruling from the Internal Revenue Service, to provide for the purchase of service credit under any of the provisions of KRS 16.510 to 16.552, 61.515 to 61.705, and 78.520 to 78.852, pursuant to the employer pick-up provisions in 26 U.S.C. sec. 414(h)(2).

(29) An employee may obtain credit for regular full-time service with an agency prior to August 1, 1998, for which the employee did not receive credit due to KRS 61.637(1), by paying a delayed contribution. The payment shall not be picked up by the employer, except as provided in subsection (28) of this section, and shall be credited to the employee's second retirement account. Service credit obtained under this subsection shall not be used in determining benefits under KRS 61.702. The employee may purchase credit for service prior to August 1, 1998, if:

(a) The employee retired from one (1) of the retirement systems administered by the Kentucky Retirement Systems and was reemployed prior to August 1, 1998, earning less than the maximum permissible earnings under the Federal Social Security Act;

(b) The employee elected to participate in a second retirement account effective August 1, 1998, in accordance with KRS 61.637(7); and

(c) The employee has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), in a second account in the systems administered by Kentucky Retirement Systems."

Floor Amendment No. 1 to the Committee Substitute to **HB 71**, by Representative Vincent:

HB 71, On page 1, line 21, after the word "years" and before the period "." insert the following: "***which may be twice renewed for a period of two (2) years, without any additional fee being charged to the applicant***".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and a Resolution:

HB 171, Representative Cornett

HB 262, Representative De. Butler

HB 404, Representative L. Clark

HB 470, Representatives Cornett, Hall, and B. Smith

HB 483, Representatives Buckingham and Napier

HR 139, Representatives Crimm and Palumbo

Representative Brinkman moved the adoption of the following **HR 146**:

HR 146, A RESOLUTION adjourning the House of Representatives in honor of Whitten Montgomery.

WHEREAS, Whitten Montgomery, an esteemed resident of Louisville, Jefferson County, Kentucky, and a student at Louisville Collegiate School, has achieved national recognition for exemplary volunteer service by receiving a 2004 Prudential Spirit of Community Award; and

WHEREAS, this prestigious award, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Whitten Montgomery earned this award by giving generously of her time and energy to found the "Kids Acting Against Cancer," a performing arts group that has raised more than $40,000 for research and children diagnosed with cancer; and

WHEREAS, the success of the Commonwealth of Kentucky, the strength of our communities, and the overall vitality of American society depend, in great measure, upon the dedication of young people like Whitten Montgomery who use their considerable talents and resources to serve others;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This House of Representatives congratulates Whitten Montgomery upon being the recipient of a 2004 Prudential Spirit of Community Award, and this honorable body recognizes her outstanding record of volunteer service, peer leadership, and community spirit. We extend our wishes to her for success in all future endeavors.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Whitten Montgomery.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Ms. Whitten Montgomery, c/o Louisville Collegiate School, 2427 Glenmary Avenue, Louisville, Kentucky 40204; and to the Head of School, Louisville Collegiate School, 2427 Glenmary Avenue, Louisville, Kentucky 40204.

There being no objection, **HR 146** was adopted.

Representative Meeks moved the adoption of the following **HR 137**:

HR 137, A RESOLUTION recognizing the month of February as Black History Month.

WHEREAS, during the month of February, across the United States of America and across this great Commonwealth, observances are held to increase public awareness of the importance of Black history and the contributions that African-Americans have made toward their country; and

WHEREAS, not only during the month of February, but throughout the remainder of the year, it is important that we reach out to one another in seeking and understanding our fellow man in a peaceful and loving way; and

WHEREAS, the citizens of this great Commonwealth should recommit themselves to an ideal America where equality and justice will always prevail and to the concepts of love, wisdom, and compassion toward one another; and

WHEREAS, the respect that fellow citizens have for one another determines the value of any country;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives of the Commonwealth of Kentucky recognizes the month of February as Black History Month, and urges that the citizens of this great Commonwealth be mindful of the contributions of African-Americans and of all its citizens throughout the year.

Section 2. The Clerk of the House of Representatives is hereby directed to provide copies of this Resolution to any individual upon request.

There being no objection, **HR 137** was adopted.

Announcements

The following meetings were announced:

Committee on Labor and Industry: Tuesday, February 17, 2004, 2:00 p.m., Room 125

Committee on Seniors, Military Affairs, and Public Safety: Tuesday, February 17, 2004, upon adjournment, Room 149

Committee on Appropriations and Revenue: Tuesday, February 17, 2004, 12 noon, Room 129

Committee on Natural Resources: Tuesday, February 17, 2004, meeting canceled

Budget Review Subcommittee on Education: Tuesday, 1:00 p.m., February 17, 2004, Room 113

Committee on Local Government: Tuesday, February 17, 2004, 2:00 p.m., Room 129

Committee on State Government: Tuesday, February 17, 2004, 2:00 p.m.

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 4:00 p.m., Tuesday, February 17, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 4:00 p.m., Tuesday, February 17, 2004, was adopted by voice vote.

TUESDAY, FEBRUARY 17, 2004

TWENTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Alan Sorem, South Frankfort Presbyterian Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Bather.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 13, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 516, by Representative Burch: AN ACT relating to prescription drugs dispensed through programs under the jurisdiction of the Cabinet for Health Services.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 505**

Banking and Insurance: **HB 507, 508, 509**

Education: **HB 515, SB 80, 124**

Judiciary: **HB 504, 506**

Local Government: **HB 510**

State Government: **HB 512, 513**

Tourism Development and Energy: **HJR 150**

Transportation: **HB 511, 514**

House Floor: **HR 149**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Health and Welfare: **HB 145, 262, 378, 383, 477, HJR 65, 136**

Judiciary: **HB 471, 124**

Report of Committees

The Committee on Labor and Industry reported **HB 130, HB 132, HB 360,** and **HR 53** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 130, AN ACT relating to student credit cards.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 287.385 is amended to read as follows:

(1) For the purpose of borrowing money from a state or national bank for ***his or her***[~~their~~] own higher educational purposes, the disabilities of nonage of *a minor*[~~minors~~] are removed for all purposes[~~, whether male or female~~]. Any minor is authorized to make and execute any and all promissory notes, contracts, or other instruments necessary[~~ to be executed by him~~] in order to borrow money for his *or her* own higher educational purposes, and *the*[~~such~~] promissory notes, contracts, or other instruments shall have the same force and effect as though they were the obligations of *a person*[~~persons~~] over the age of[~~ their~~] majority. Any promissory note, contract, or other instrument entered into by any[~~ such~~] person pursuant to the provisions of this section shall have the approval of the parent or guardian of *the*[~~such~~] minor and of the financial officer of the institution of higher learning.

(2) Credit card companies, marketers, or their agents shall not offer gifts to students for filling out applications for student credit cards.

(3) (a) Public postsecondary institutions shall include credit card and debt education and counseling sessions as a part of campus orientation of new students.

(b) Nonpublic colleges and universities are encouraged to include credit card and debt education and counseling sessions as a part of campus orientation of new students.

(c) For purposes of this subsection, colleges and universities may utilize existing debt education material prepared by nonprofit entities and thus not incur the expense of preparing new materials.

(4) The Council on Postsecondary Education shall promulgate administrative regulations regarding student credit card marketing on public postsecondary campuses. The administrative regulations shall address the registration of marketing sites by campus administration and the number of sites to be permitted on a campus.

(5) A nonpublic college or university shall adopt a policy regarding student credit card marketing on campus as a requirement for licensure by the Council on Postsecondary Education provided by Section 2 of this Act, and is encouraged to adopt a policy that addresses the registration of marketing sites by campus administration and the number of sites to be permitted on a campus.

(6) (a) For the purposes of this section, "student credit card" means a credit card that is provided to a public or nonpublic college or university student:

1. Based solely on the student's enrollment at the institution; or

2. Who would not otherwise qualify for that credit card on the basis of his or her income.

(b) A "student credit card" does not include a credit card issued to a student who has a co-cardholder or cosigner who would otherwise qualify for a credit card other than a student credit card.

Section 2. KRS 164.947 is amended to read as follows:

(1) The Council on Postsecondary Education[~~ by regulation~~] shall*, by the promulgation of administrative regulations,* adopt standards and procedures for the licensing of colleges to ensure that the programs of preparation are comparable to the generally accepted standards of collegiate instruction with respect to faculty, curriculum, facilities, and student cost and that there is full disclosure with respect to the philosophy and purposes of the institutions and their capacity to fulfill these objectives. *The administrative regulations shall include a requirement that a college adopt a policy regarding student credit card marketing on campus as set forth in Section 1 of this Act.*

(2) Nothing contained in KRS 164.945 to 164.947 is intended in any way nor shall be construed to regulate the stated purpose of an independent institution or to restrict religious instruction or training in an independent institution.

(3) All colleges as defined in KRS 164.945 shall be required to hold a license issued by the *president*[~~executive director~~] of the Council on *Postsecondary*[~~Higher~~] Education[~~ or his successor~~], under the provisions of KRS 164.945 to 164.947 and under the regulations of the Council on *Postsecondary*[~~Higher~~] Education[~~, or its successor. Within ninety (90) days of July 13, 1990, all colleges shall be required to hold licenses~~].

(4) The designated use of the title "college" or "university" in combination with any series of letters, numbers, or words shall be restricted to the institutions licensed under KRS 164.945 to 164.947 except that new branches, divisions, or additions to existing institutions shall be licensed.

HB 132, AN ACT relating to indoor air quality and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198B.658 is amended to read as follows:

(1) The board shall issue a master heating, ventilation, and air conditioning contractor's license to any person who:

(a) Is at least eighteen (18) years of age;

(b) Has been regularly and principally employed or engaged in the heating, ventilation, and air conditioning trades as a journeyman heating, ventilation, and air conditioning mechanic for not less than two (2) years, under the direction and supervision of a master heating, ventilation, and air conditioning contractor; and

(c) Has passed an examination prescribed by the board to determine competency to practice heating, ventilation, and air conditioning contracting.

(2) The board shall issue a journeyman heating, ventilation, and air conditioning mechanic's license to any person who:

(a) Is at least eighteen (18) years of age;

(b) Has been regularly and principally employed or engaged in the heating, ventilation, and air conditioning trades for not less than two (2) years, under the direction and supervision of a master heating, ventilation, and air conditioning contractor, or who prior to July 1, 1995, under the direction and supervision of a person who qualifies under KRS 198B.662; and

(c) Has passed an examination prescribed by the board to determine competency to install, maintain, and repair heating and cooling systems, heating and cooling service, burner service, and hydronic systems.

(3) The board shall issue an apprentice heating, ventilation, and air conditioning mechanic's certificate to any person who is registered with the board.

(a) The board shall establish by administrative regulation the minimum number of hours of experience required by apprentices and shall maintain an apprentice register to credit an apprentice for hours worked under the supervision of a master heating, ventilation, and air conditioning contractor and journeyman heating, ventilation, and air conditioning mechanic. Experience gained under the supervision of a Kentucky licensed master heating, ventilation, and air conditioning contractor while registered as an apprentice with the Kentucky Labor Cabinet, Division of Employment Standards, Apprenticeship and Training in cooperation with the United States Department of Labor, Bureau of Apprenticeship and Training shall be accepted toward the two (2) year experience requirement for a journeyman heating, ventilation, and air conditioning mechanic license.

(b) The apprentice register shall include the name, address, Social Security number, employer, and dates of employment of the apprentice.

(c) The apprentice shall notify the board in writing of any change in address or employer.

(d) Apprentices and pre-apprentices shall not be required to pay fees for a certificate of registration or a registration renewal fee.

(4) The satisfactory completion of one (1) academic year of a board-approved curriculum or one (1) year of professional training in heating, ventilation, and air conditioning work may be considered as equivalent to one (1) year of employment required by subsection (2)(b) of this section, not to exceed one (1) year.

(5) The satisfactory completion of one (1) academic year of teaching experience in a board-approved or state-approved technical education program in heating, ventilation, and air conditioning shall be considered as equivalent to one (1) year of employment, as required by subsection (1)(b) or (2)(b) of this section. No more than one (1) year of approved teaching experience may be used in meeting the requirements of subsection (1)(b) or (2)(b) of this section.

(6) The board shall require appropriate education about prevention, detection, and remediation of toxic mold and other indoor environmental toxins prior to any licensure, relicensure, certification, or recertification under KRS 198B.650 to 198B.689.

Section 2. KRS 198B.090 is amended to read as follows:

(1) On or before July 1, 1983, the department shall create and administer a certification program with sufficient testing procedures to certify the following professional classifications:

(a) Building inspector;

(b) Plans and specifications inspector; and

(c) Plumbing inspector.

(2) The testing procedures shall be sufficient to reflect the ability of the person applying for certification to inspect in accordance with those local, state, and federal building codes, fire codes, plumbing codes, or health and safety codes, that are applicable to the inspection duties for which he requests certification.

(3) The department shall conduct or sponsor preentry and in-service education and training programs on the technical, legal, and administrative aspects of building code administration and enforcement. For this purpose it may cooperate and contract with educational institutions, area development districts, local, regional, state or national building officials' organizations, and any other appropriate organization.

(4) On or before July 1, 1983, the department shall create and administer an educational program designed to prepare building officials, code enforcement officers and other persons interested in obtaining from the department a certification as a building inspector, plans and specifications inspector, or plumbing inspector. The program shall be so designed as to insure uniform statewide enforcement of the applicable state building and plumbing codes. Training material coverage shall be adequate to prepare the participants with a working knowledge of construction design, specification terms, and the state building codes applicable to the particular field in which the applicant requests certification.

(5) Plumbing inspectors who are in compliance with KRS 318.090 as state inspectors and KRS 318.140 as city-county inspectors, shall be considered in accordance with subsections (1)(c) and (2) of this section and shall not be required to be retested by the Department of Housing prior to consideration for certification as a plumbing inspector. The Department of Housing shall review the plumbing inspector's qualifications and credentials for compliance with KRS 318.090 or 318.140

prior to issuing a certification to the inspector's certificate applicant.

(6) Attendance at the training sessions shall not be mandatory prior to testing for certification if the applicant's previous education or experience qualifies the applicant to obtain a passing score on the required certification test.

(7) Training sessions shall be held as frequently as is felt necessary by the commissioner to adequately provide for local and state building inspection needs.

(8) The department's plans and specifications review staff and the field inspection staff shall attend the training and become certified in accordance with the provisions of this section.

(9) All building inspectors, plans and specification inspectors, and plumbing inspectors shall be certified or enrolled and actively pursuing department certification by October 1, 1983, or within ninety (90) days after employment as an inspector, whichever comes later.

(10) The board shall establish a schedule of fees to cover the cost of the education, testing, and certification programs to be paid by the applicants for certification. The fees shall not exceed the actual cost of the services performed by the department to administer the programs listed in this section.

(11) The department may reimburse building officials, code enforcement officers and other employees of the state and its subdivisions for related expenses incurred by them for attendance at in-service training programs approved by the department.

(12) The Department of Housing, Buildings, and Construction shall require appropriate education about prevention, detection, and remediation of toxic mold and other indoor environmental toxins in any training curricula program conducted or sponsored under this section.

Section 3. (1) The Speaker of the House and the President of the Senate are directed to establish a twenty (20) member task force of the Legislative Research Commission on indoor air quality and to select two (2) co-chairs from among its members no later than thirty (30) days from the effective date of this Act. The task force shall initially meet no later than thirty (30) days after its co-chairs are selected, and shall report its recommendations as proposed legislation in accordance with subsection (2) of this section to the Interim Joint Committee on Health and Welfare no later than December 1, 2004. The task force shall cease to exist upon the making of its report.

(2) The task force shall review existing construction and building inspection standards, along with the educational requirements for persons engaged in professions related to those issues. The task force shall:

(a) Study potential adverse health effects of exposure to indoor environmental toxins, including but not limited to molds, on the general public, including specific effects on special populations such as infants, children, pregnant women, the elderly, persons with allergies or other susceptible medical conditions, or other groups at the discretion of the task force;

(b) Study potential standards and industry recommendations to prevent the incidence of environmental toxins in buildings, including but not limited to public buildings, private residences, apartments, and health care facilities, and to detect and correct the presence of environmental toxins;

(c) Study the technological and economic feasibility of compliance with proposed permissible exposure limits for molds. This study shall include but not be limited to the costs of compliance upon tenants, landlords, homeowners, and other affected parties;

(d) Study toxicological and other scientific evidence relating to indoor environmental toxins;

(e) Consider voluntary disclosure and enforcement options as means of implementing quantifiable standards recommended by the task force; and

(f) Report to the General Assembly, by December 1, 2004, with recommendations and proposed legislation.

(3) The task force shall consist of the following members:

(a) Three (3) members of the Senate, to be selected by the President of the Senate, and three (3) members of the House of Representatives, to be selected by the Speaker of the House of Representatives;

(b) Two (2) members of the Kentucky Association of State Employees, one (1) each to be selected by the President of the Senate and the Speaker of the House of Representatives;

(c) Two (2) members from the Kentucky Cabinet for Health Services, Department for Public Health, one (1) each to be selected by the President of the Senate and the Speaker of the House of Representatives;

(d) Two (2) members from the Department for Housing, Buildings, and Construction, one (1) each to be selected by the President of the Senate and the Speaker of the House of Representatives;

(e) Two (2) building inspectors employed by local governments, one (1) each to be selected by the President of the Senate and the Speaker of the House of Representatives;

(f) Two (2) persons holding a master heating, ventilation, and air conditioning contractor's license, one (1) each to be selected by the President of the Senate and the Speaker of the House of Representatives;

(g) Two (2) members from the Department of Facilities Management, Finance and Administration Cabinet, one (1) each to be selected by the President of the Senate and the Speaker of the House of Representatives; and

(h) Two (2) members from consumer groups with familiarity in issues involving the purchase of residential or commercial real estate one (1) each to be selected by the President of the Senate and the Speaker of the House of Representatives.

(4) Except as provided in KRS 18A.200, members of the task force shall receive actual travel expenses while attending meetings.

(5) The task force may employ consultants if approved by the Legislative Research Commission, request and hear testimony, and take other steps to ensure a thorough and reasonable study of the issue. The task force shall be staffed by the Legislative Research Commission.

(6) Provisions of this section to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

Section 4. Whereas environmental toxins, including but not limited to molds, represent a threat to the health of the citizens of the Commonwealth, an emergency is declared to exist, and Section 3 of this Act takes effect upon its passage and signature by the Governor or upon its otherwise becoming law.

HB 360, AN ACT relating to unemployment insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 341.370 is amended to read as follows:

(1) A worker shall be disqualified from receiving benefits for the duration of any period of unemployment with respect to which:

(a) He has failed without good cause either to apply for available, suitable work when so directed by the employment office or the secretary or to accept suitable work when offered him, or to return to his customary self-employment when so directed by the secretary; or

(b) He has been discharged for misconduct or dishonesty connected with his most recent work, or from any work which occurred after the first day of the worker's base period and which last preceded his most recent work, but legitimate activity in connection with labor organizations or failure to join a company union shall not be construed as misconduct; or

(c) He has left his most recent suitable work or any other suitable work which occurred after the first day of the worker's base period and which last preceded his most recent work voluntarily without good cause attributable to the employment. No otherwise eligible worker shall be disqualified from receiving benefits for leaving his next most recent suitable work which was concurrent with his most recent work, or for leaving work which is one hundred (100) road miles or more, as measured on a one (1) way basis, from his home to accept work which is less than one hundred (100) road miles from his home, or for otherwise accepting work which is a bona fide job offer with a reasonable expectation of continued employment.

(2) A worker shall be disqualified from receiving benefits for any week with respect to which he knowingly made a false statement to establish his right to or the amount of his benefits, and, within the succeeding twenty-four (24) months, for the additional weeks immediately following the date of discovery, not to exceed a total of fifty-two (52), as may be determined by the secretary.

(3) No worker shall be disqualified under paragraph (b) or (c) of subsection (1) of this section unless the employer, within a reasonable time as prescribed by regulations promulgated by the secretary, notifies the Cabinet for Workforce Development and the worker in writing of the alleged voluntary quitting or the discharge for misconduct. Nothing in this subsection shall restrict the right of the secretary to disqualify a worker whose employer has refused or failed to notify the Cabinet for Workforce Development of the alleged voluntary quitting or discharge for misconduct, if the alleged voluntary quitting or discharge for misconduct is known to the secretary prior to the time benefits are paid to the worker. The exercise of the right by the secretary, in the absence of timely notice from the employer, shall not relieve the employer's reserve account or reimbursing employer's account of benefit charges under the provisions of subsection (3) of KRS 341.530.

(4) As used in this section and in subsection (3) of KRS 341.530, "most recent" work shall be construed as that work which occurred after the first day of the worker's base period and which last preceded the week of unemployment with respect to which benefits are claimed; except that, if the work last preceding the week of unemployment was seasonal, intermittent, or temporary in nature, most recent work may be construed as that work last preceding the seasonal, intermittent, or temporary work.

(5) No worker shall be disqualified or held ineligible under the provisions of this section or KRS 341.350, who is separated from employment pursuant to a labor management contract or agreement, or pursuant to an established employer plan, program, or policy, which permits the employer to close the plant or facility for purposes of vacation or maintenance.

(6) ***(a) No worker shall be disqualified or held ineligible under the provisions of this section or KRS 341.350, who leaves work due to circumstances directly resulting from domestic violence and abuse as defined in KRS***

403.720, and with respect to which:

1. The worker fears domestic violence and abuse at or on route to or from the worker's place of employment;

2. The worker wishes to relocate to another geographic area in order to avoid future domestic violence and abuse against the worker, the worker's family, or co-workers; or

3. The worker believes that leaving work is necessary for the future safety of the worker, the worker's family, or co-workers.

(b) To assist in the determination as to whether a worker has experienced domestic violence and abuse for the purpose of benefit eligibility, the worker shall provide documentation of domestic violence and abuse as prescribed in administrative regulations promulgated by the secretary, including but not limited to police or court records or other documentation of domestic violence and abuse from a shelter worker, attorney, member of the clergy, or medical or other professional from whom the worker has sought assistance.

(c) All documentation of evidence shall be kept confidential unless consent for disclosure is given by the worker.

(7) "Discharge for misconduct" as used in this section shall include, but not be limited to, separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge; knowing violation of a reasonable and uniformly enforced rule of an employer; unsatisfactory attendance if the worker cannot show good cause for absences or tardiness; damaging the employer's property through gross negligence; refusing to obey reasonable instructions; reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours; conduct endangering safety of self or co-workers; and incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction, which results in missing at least five (5) days work.

(8)[~~(7)~~] "Duration of any period of unemployment," as that term is used in this section, shall be the period of time beginning with the worker's discharge, voluntary quitting, or failure to apply for or accept suitable work and running until the worker has worked in each of ten (10) weeks, whether or not consecutive, and has earned ten (10) times his weekly benefit rate in employment covered under the provisions of this chapter or a similar law of another state or of the United States.

Section 2. KRS 341.530 is amended to read as follows:

(1) The department shall maintain a reserve account for each subject employer making contributions to the fund and a reimbursing employer account for each subject employer making payment in lieu of contributions, and shall, except as provided in KRS 341.590, credit to such account the total amount of all contributions or benefit reimbursement paid by the employer on his own behalf. Nothing in this section or elsewhere in this chapter shall be construed to grant any employer or individual who is or was in his employ prior claims or rights to the amounts paid by him into the fund.

(2) Except as provided in subsection (3) of this section, all regular benefits paid to an eligible worker in accordance with KRS 341.380 plus the extended benefits paid in accordance with KRS 341.700 to 341.740, subject to the provisions of paragraphs (a) and (b) below, shall be charged against the reserve account or reimbursing employer account of his most recent employer. No employer shall be deemed to be the most recent employer unless the eligible worker to whom benefits are payable shall have worked for such employer in each of ten (10) weeks whether or not consecutive back to the beginning of the worker's base period.

(a) Subject employers, which are not governmental entities as defined in KRS 341.069, shall be charged one-half (1/2) of the extended benefits paid in accordance with KRS 341.700 to 341.740; and

(b) Subject employers which are governmental entities, as defined in KRS 341.069, shall be charged for all extended benefits paid in accordance with KRS 341.700 to 341.740 for compensable weeks occurring on or after January 1, 1979, and for one-half (1/2) of the extended benefits paid for compensable weeks occurring prior to such date.

(3) Notwithstanding the provisions of subsection (2) of this section, benefits paid to an eligible worker and chargeable to a contributing employer's reserve account under such subsection shall be charged against the pooled account if such worker was discharged by such employer for misconduct connected with his most recent work for such employer, voluntarily left his most recent work with such employer without good cause attributable to the employment, *voluntarily left the employer to protect himself or herself, his or her family, or co-workers from domestic violence and abuse,* or the employer has continued to provide part-time employment and wages, without interruption, to the same extent that was provided from the date of hire, and the employer within a reasonable time, as prescribed by regulation of the secretary, notifies the department, in writing, of the alleged voluntary quitting, discharge for misconduct or continuing part-time employment; provided, however, that no employer making payments to the fund in lieu of contributions shall be relieved of charges by reason of this subsection.

(4) Each subject employer's reserve account or reimbursing account shall, unless terminated as of the computation date (as defined in subsection (5) of KRS 341.270), be charged with all benefits paid to eligible workers which are chargeable to such reserve account or reimbursing account under subsection (2) of this section. A subject employer's reserve account or reimbursing account shall be deemed to be terminated if he has ceased to be subject to this chapter, and his account has been closed and any balance remaining therein has been transferred to the fund's pooled account or to a successor's account as provided in KRS 341.540 or has been refunded if the employer is a reimbursing employer.

(5) Notwithstanding subsection (1) of this section, two (2) or more nonprofit (Internal Revenue Code sec. 501(c)(3)) organizations may jointly request the secretary to establish a group reserve account or reimbursing account for such nonprofit organizations. Two (2) or more governmental entities may jointly request the secretary to establish a group reserve account or reimbursing account, and once established, such account shall remain in effect at least two (2) calendar years and thereafter until either dissolved at the discretion of the secretary or upon filing application for dissolution by the group members. Each member of a group shall be jointly and severally liable for all payments due under this chapter from each or all of such group members. The secretary shall prescribe such procedures as he deems necessary for the establishment, maintenance, and dissolution of a group reserve account or reimbursing account.

(6) Any subject contributing employer may at any time make voluntary payments to the fund, additional to the contributions required under KRS 341.260 and 341.270. Notwithstanding any other provision of this chapter, contributions paid on or before the computation date and voluntary payments made within twenty (20) days following the mailing of notices of new rates shall be credited to an employer's reserve account as of the computation date, provided no voluntary payments shall be used in computing an employer's rate unless the payment is made prior to the expiration of one hundred and twenty (120) days after the beginning of the year for which the rate is effective. Voluntary contributions by any employer subject to a minimum rate as provided in KRS 341.270(2) or KRS 341.272(1) shall not exceed any negative balance they may have in their reserve account as of the computation date. Any employer who is delinquent in the payment of contributions, penalties, or interest as of the computation date shall be entitled to make voluntary payments only after the amount of the delinquency is paid in full.

Section 3. KRS 341.360 is amended to read as follows:

No worker may be paid benefits for any week of unemployment:

(1) With respect to which a strike or other bona fide labor dispute which caused him to leave or lose his employment is in active progress in the establishment in which he is or was employed, except that benefits may be paid unless the employer notifies the department in writing within seven (7) days after the beginning of such alleged strike or labor dispute of the alleged existence of such strike or labor dispute. For the purpose of this subsection a lockout shall not be deemed to be a strike or a bona fide labor dispute and no worker shall be denied benefits by reason of a lockout;

(2) For which he has received or is seeking unemployment compensation under an unemployment compensation law of another state or of the United States, except as otherwise provided by an arrangement between this state and such other state or the United States. But if the appropriate agency of such state or of the United States finally determines that he is not entitled to such unemployment compensation, this subsection shall not apply; or

(3) (a) Which, when based on service in an instructional, research, or principal administrative capacity in an institution of higher education as defined in subsection (2) of KRS 341.067 or in an educational institution as defined in subsection (4) of KRS 341.067, begins during the period between two (2) successive academic years, or during a similar period between two (2) regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the worker performs such services in the first of such academic years or terms and if there is a contract or a reasonable assurance that the worker will perform such services in any such capacity for any institution or institutions of higher education or an educational institution in the second of such academic years or such terms; or

(b) Which, when based on service other than as defined in paragraph (a) of this subsection, in an institution of higher education or an educational institution, as defined in subsection (2) or (4) of KRS 341.067, begins during the period between two (2) successive academic years or terms, if the worker performs such services in the first of such academic years or terms and there is a reasonable assurance that the worker will perform such services in the second of such academic years or terms; except that if benefits are denied to any worker under this paragraph and such worker was not offered an opportunity to perform such services for such institution of higher education or such educational institution for the second of such academic years or terms, such worker shall be entitled to a retroactive payment of benefits for each week for which the worker filed a timely claim for benefits and for which benefits were denied solely by reason of this paragraph; or

(c) Which, when based on service in any capacity defined in paragraphs (a) and (b) of this subsection, begins during an established and customary vacation period or holiday recess if the worker performs any such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such worker will perform any such services in the period immediately following such vacation period or holiday recess; or

(d) Based on service in any capacity defined in paragraph (a) or (b) of this subsection when such service is performed by the worker in an institution of higher education or an educational institution, as defined in subsection (2) or (4) of KRS 341.067, while the worker is in the employ of an educational service agency, and such unemployment begins during the periods and pursuant to the conditions specified in paragraphs (a), (b), and (c) of this subsection. For purposes of this paragraph the term "educational service agency" means a governmental agency or governmental entity which is established and operated exclusively for the purpose of providing such services to one (1) or more institutions of higher education or educational institutions.

(4) Except that any benefits paid to a worker based on service other than as defined in subsection (3)(a) of this section performed in an institution of higher education as defined in subsection (2) of KRS 341.067 shall be deemed to have been

paid as a result of departmental error and not recoverable by the cabinet or such institution if such payment is improper by virtue of the retroactive application to October 30, 1983, of subsection (3)(b) of this section.

(5) Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two (2) successive sport seasons (or similar periods) and there is a reasonable assurance that such individual will perform such services in the later of such seasons (or similar periods).

(6) (a) Benefits shall not be paid on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was residing in the United States under color of law at the time such services were performed (including an alien who was lawfully present in the United States as a result of the application of the provisions of Section 203(a)(7) or Section 212(d)(5) of the Immigration and Nationality Act).

(b) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(c) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of his alien status shall be made except upon a preponderance of the evidence.

(7) With respect to which the worker is suspended from work for misconduct, as defined in KRS 341.370*(7)*[~~(6)~~], connected with the work.

HR 53, A RESOLUTION urging the Kentucky Occupational Safety and Health Standards Board to study, develop, and adopt an ergonomics standard for the Commonwealth.

WHEREAS, after the federal Occupational Safety and Health Administration's (OSHA's) final standard on ergonomics, issued in November 2000, was rescinded; and

WHEREAS, current OSHA policy emphasizes developing industry and task specific prevention guidelines, increasing and focusing enforcement efforts on ergonomic hazards, especially at high risk worksites; conducting outreach and assistance to increase awareness of ergonomic issues and solutions, and identifying and supporting on-going research in lieu of a formal standard; and

WHEREAS, during the year 2000, work-related musculoskeletal disorders involving days away from work in Kentucky accounted for a little over two percent of the more than 577,000 disorders reported to the federal Bureau of Labor Statistics; and

WHEREAS, an expeditious study and adoption of an ergonomic standard is necessary to prevent future injuries to Kentucky employees and reduce the cost of doing business for employers by reducing their worker's compensation, turnover, and training costs;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body urges the Kentucky Occupational Safety and Health Standards Board to study, develop, and expeditiously adopt an ergonomics standard designed to reduce work-related injuries and illnesses developed by workers whose jobs involve repetitive motions, force, awkward postures, contact stress and vibration, not later than July 1, 2006.

Section 2. The Kentucky Occupational Safety and Health Standards Board shall convene a special committee comprised of not less than seven members of the Standards board to examine policies and practices related to ergonomic injuries and illnesses throughout the Commonwealth. The special committee shall have at least one representative of labor, management, agriculture, and the occupational health and safety professions.

Section 3. The special committee shall make a report of its findings and recommendations to the Legislative Research Commission and the Interim Joint Committee on Labor and Industry of the General Assembly not later than October 31, 2005.

Section 4. The report shall contain recommendations on approaches the state can utilize to strengthen and coordinate efforts to reduce work-related injuries and illnesses due to ergonomic factors. Also, the report shall include information on the availability and use of safety and prevention guidelines and special assistance for those industries and occupations with a high incidence of ergonomic related injuries; costs of and barriers to implementing ergonomic programs in various industries, especially small businesses; results of statewide enforcement efforts targeting ergonomic hazards; impact of Labor Cabinet programs and services used to provide information and technical assistance to employers, employees, and the general public on ergonomic issues; and the effect of employer incentives used to reduce or prevent ergonomic injuries and illnesses during the past two fiscal years.

Section 5. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Secretary of the Labor Cabinet, 1047 U.S. 127 South, Frankfort, Kentucky 40601, for distribution to members of the Kentucky Occupational Safety and Health Standards Board.

The Committee on Local Government reported **HB 62** and **HB 458** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 62, AN ACT relating to industrial recruiters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act, unless the context indicates otherwise:

(1) "Industrial recruiter" means a person hired by a local government to recruit, solicit, or attract businesses and industries to locate within its geographical boundaries for industrial or economic development purposes;

(2) "In-kind services" means the provision of office space, secretarial or administrative services, supplies, and equipment at less than fair market value;

(3) "Local government" means any city, county, urban-county, charter county, or consolidated local government; and

(4) "Local governmental client" means a local government that contracts or has contracted with an industrial recruiter.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) A local government may require an industrial recruiter it contracts with to disclose prior to his or her employment the names of any clients for which the recruiter works. For purposes of Section 1 to 5 of this Act, an industrial recruiter shall be deemed to be in the employ of a local government if the local government pays any moneys or contributes in-kind services that are used to hire the recruiter or further the recruiter in performing his or her job as a recruiter.

(2) A statement indicating that disclosure has been made or waived pursuant to subsection (1) of this section shall be evidenced by a dated statement that is signed by both parties to the employment contract or agreement.

(3) An industrial recruiter who is required to disclose his or her clients under subsection (1) of this section shall answer truthfully. A local government may void the contract if the disclosure is false, misleading, or incomplete.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) If an industrial recruiter obtains an additional client during the tenure of his or her contract with the local governmental client, the recruiter shall notify the local government with which he or she has contracted of the new client, unless disclosure is waived by the local government. This notice shall be given within five (5) business days of entering the contract or agreement with the new client unless the disclosure is waived by the governmental client.

(2) A statement indicating that disclosure has been made or waived under subsection (1) of this section shall be evidenced by the signatures of the government employer and the industrial recruiter. The statement shall be dated and shall be attached to or placed in close proximity to the contract or employment agreement.

(3) An industrial recruiter who is required to disclose his or her clients under subsection (1) of this section shall answer truthfully.

(4) An existing local governmental client may void his or her contract with the industrial recruiter if:

(a) The industrial recruiter's disclosure under subsection (1) of this section is false, misleading, or incomplete; or

(b) The new client's interest is adverse to the interest of the existing local governmental client.

An interest shall not be determined adverse if the local governmental client waives disclosure under subsection (1) of this section.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) A person who is employed by state government, an area development district, or a local government to recruit, solicit, or attract businesses and industries to locate in the state, area development district, or local government for industrial or economic development purposes shall not be employed as an industrial recruiter.

(2) A person who is employed by state government, an area development district, or a local government to recruit, solicit, or attract businesses and industries to locate in the state, area development district, or local government for industrial or economic development purposes shall not enter into a contract for employment as an industrial recruiter until at least one (1) year has expired from the time the person begins his or her employment as an industrial recruiter and the time the person last completed similar work as a state government, area development district, or local government employee.

(3) A government employee who violates this section shall be subject to the disciplinary proceeding established for government employees.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of Sections 1 to 5 of this Act shall apply to employment contracts or agreements entered into on or after the effective date of this Act.

(2) Nothing in Sections 1 to 5 of this Act shall negate any express provisions set out in an employment contract or agreement to the contrary.

HB 458, AN ACT relating to local taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.750 is amended to read as follows:

As used in KRS 67.750 to 67.790, unless the context requires otherwise:

(1) "Business entity" means each separate corporation, limited liability company, business development corporation, partnership, limited partnership, registered limited liability partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted;

(2) "Compensation" means wages, salaries, commissions, or any other form of remuneration paid or payable by an employer for services performed by an employee, which are required to be reported for federal income tax purposes and adjusted as follows:

(a) Include any amounts contributed by an employee to any retirement, profit sharing, or deferred compensation plan, which are deferred for federal income tax purposes under a salary reduction agreement or similar arrangement, including but not limited to salary reduction arrangements under Section 401(a), 401(k), 402(e), 403(a), 403(b), 408, 414(h), or 457 of the Internal Revenue Code; and

(b) Include any amounts contributed by an employee to any welfare benefit, fringe benefit, or other benefit plan made by salary reduction or other payment method which permits employees to elect to reduce federal taxable compensation under the Internal Revenue Code, including but not limited to Sections 125 and 132 of the Internal Revenue Code;

(3) "Fiscal year" means fiscal year as defined in Section 7701(a)(24) of the Internal Revenue Code;

(4) "Employee" means ***any person who renders services to another person or business entity for compensation, including an officer of a corporation and any officer, employee, or elected official of the United States, a state, or any political subdivision of a state, or any agency or instrumentality of any one (1) or more of the above. A person classified as an independent contractor under the Internal Revenue Code shall not be considered an*** employee[~~ as defined in Section 3401(c) of the Internal Revenue Code~~];

(5) "Employer" means employer as defined in Section 3401(d) of the Internal Revenue Code;

(6) "Gross receipts" means all revenues or proceeds derived from ***the sale, lease, or rental***[~~sales~~] of goods***,***[~~ or~~] services***, or property*** by a business entity ***reduced by the following:***

(a) Sales and excise taxes paid; and

(b) Returns and allowances[~~with only a deduction allowed for sales and excise taxes and returns and allowances~~];

(7) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, ***2003***[~~2002~~], exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, ***2003***[~~2002~~], that would otherwise terminate;

(8) "Net profit"[~~ in case of a business entity~~] means gross income as defined in Section 61 of the Internal Revenue Code minus all the deductions from gross income allowed by Chapter 1 of the Internal Revenue Code, and adjusted as follows:

(a) Include any amount claimed as a deduction for state tax or local tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, local taxing authority in a state, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision thereof;

(b) Include any amount claimed as a deduction that directly or indirectly is allocable to income which is either exempt from taxation or otherwise not taxed;

(c) Include any amount claimed as a net operating loss carryback or carryforward allowed under Section 172 of the Internal Revenue Code;

(d) Include any amount of income and expenses passed through separately as required by the Internal Revenue Code to an owner of a business entity that is a pass-through entity for federal tax purposes; and

(e) Exclude any amount of income that is exempt from state taxation by the Kentucky Constitution, or the Constitution and statutory laws of the United States;

(9) ***"Sales revenue" means receipts from the sale, lease, or rental of goods, services, or property;***

(10) "Tax district" means a city of the first to fifth class, county, urban-county, charter county,[~~ or~~] consolidated local government***, school district, special taxing district, or any other statutorily created entity with the authority to levy net profits, gross receipts, or occupational license taxes***;

(11)[~~(10)~~] "Taxable gross receipts" in case of a business entity having payroll ***or sales revenues*** both within and without a tax district means gross receipts as defined in subsection (6) of this section,[~~ and~~] as apportioned under KRS 67.753;

(12)[~~(11)~~] "Taxable gross receipts" in case of a business entity having payroll ***or sales revenue*** only in one (1) tax district means gross receipts as defined in subsection (6) of this section;

(13)[~~(12)~~] "Taxable net profit" in case of a business entity having payroll ***or sales revenue*** only in one (1) tax district means net profit as defined in subsection (8) of this section;

(14)[~~(13)~~] "Taxable net profit" in case of a business entity having payroll ***or sales revenue*** both within and without a tax district means net profit as defined in subsection (8) of this section,[~~ and~~] as apportioned under KRS 67.753; and

(15)[~~(14)~~] "Taxable year" means the calendar year or fiscal year ending during the calendar year, upon the basis of which net income or gross receipts is computed.

Section 2. KRS 67.753 is amended to read as follows:

(1) Except as provided[~~ for~~] in subsection *(4)*[~~(2)~~] of this section, net profit or gross receipts shall be apportioned ***as follows:***

(a) For business entities with both payroll and sales revenue in more than one (1) tax district,[~~to the tax district~~] by multiplying the net profit or gross receipts by a fraction, the numerator of which is the payroll factor***, described in subsection (2) of this section,*** plus the sales factor***, described in subsection (3) of this section***, and the denominator of which is two (2)***; and***

(b) For business entities with sales revenue in more than one (1) tax district, by multiplying the net profits or gross receipts by the sales factor as set forth in subsection (3) of this section.

(2)[~~(a)~~]The payroll factor is a fraction, the numerator of which is the total amount paid or payable in the tax district during the tax period by the business entity for compensation, and the denominator of which is the total compensation paid or payable by the business entity everywhere during the tax period. Compensation is paid or payable in the tax district based on the time the individual's service is performed within the tax district.

(3)[~~(b) 1.~~] The sales factor is a fraction, the numerator of which is the total sales ***revenue*** of the business entity in the tax district during the tax period, and the denominator of which is the total sales ***revenue*** of the business entity everywhere during the tax period.

(a)[~~2.~~] ***The sale, lease, or rental***[~~Sales~~] of tangible personal property ***is***[~~are~~] in the tax district if:

1.[~~a.~~] The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within the tax district regardless of the f.o.b. point or other conditions of the sale; or

2.[~~b.~~] The property is shipped from an office, store, warehouse, factory, or other place of storage in the tax district and the purchaser is the United States government.

(b)[~~3.~~] Sales ***revenues***, other than ***revenue from the sale, lease, or rental***[~~sales~~] of tangible personal property ***or the lease or rental of real property***, are apportioned to the tax district based upon a fraction, the numerator of which is the time spent in performing such income-producing activity within the tax district and the denominator of which is the total time spent performing that income-producing activity.

(c) Sales revenue from the lease or rental of real property is allocated to the tax district where the property is located.

(4)[~~(2)~~] If the apportionment provisions of this section do not fairly represent the extent of the business entity's activity in the tax district, the business entity may petition the tax district or the tax district may require, in respect to all or any part of the business entity's business activity, if reasonable:

(a) Separate accounting;

(b) The exclusion of any one (1) or more of the factors;

(c) The inclusion of one (1) or more additional factors which will fairly represent the business entity's business activity in the tax district; or

(d) The employment of any other method to effectuate an equitable allocation and apportionment of net profit or gross receipts.

Section 3. KRS 67.755 is amended to read as follows:

(1) Every business entity, other than a sole proprietorship, subject to ***a net profits, gross receipts, or occupational license tax levied by a tax district***[~~taxation under KRS 68.180, 68.197, 91.200, or 92.281,~~] shall make quarterly estimated tax payments on or before the fifteenth day of the fourth, sixth, ninth, and twelfth month of each taxable year if the tax liability for the taxable year exceeds five thousand dollars ($5,000).

(2) The quarterly estimated tax payments required under subsection (1) of this section shall be based on the lesser of:

(a) Twenty-two and one-half percent (22.5%) of the current taxable year tax liability;

(b) Twenty-five percent (25%) of the preceding full year taxable year tax liability; or

(c) Twenty-five percent (25%) of the average tax liability for the three (3) preceding full year taxable years' tax liabilities if the tax liability for any of the three (3) preceding full taxable years exceeded twenty thousand dollars ($20,000).

(3) Any business entity that fails to submit the minimum quarterly payment required under subsection (2) of this section by the due date for the quarterly payment shall pay an amount equal to twelve percent (12%) per annum simple interest on the amount of ***the*** quarterly payment required under subsection (2) of this section from the earlier of:

(a) The due date for the quarterly payment until the time when the aggregate quarterly payments submitted for the taxable year equal the minimum aggregate payments due under subsection (2) of this section; or

(b) The due date of the annual return.

A fraction of a month is counted as an entire month.

(4) The provisions of this section shall not apply to any business entity's first full or partial taxable year of doing business in the tax district or any first taxable year in which a business entity's tax liability exceeds five thousand dollars ($5,000).

(5) The provisions of this section shall not apply unless adopted by the tax district.

Section 4. KRS 67.760 is amended to read as follows:

(1) [~~As specified by KRS 67.750 to 67.790 and its application, the federal income tax law and its application, and the administrative and judicial interpretations of the federal income tax law,~~]For purposes of KRS 67.750 to 67.790 computations of gross income and deductions therefrom, gross receipts or sales, and deductions therefrom, accounting methods, and accounting procedures shall be as nearly as practicable identical with those required for federal income tax purposes.

(2) Every business entity subject to an occupational license tax governed by the provisions of KRS 67.750 to 67.790 shall keep records, render under oath statements, make returns, and comply with rules as the tax district from time to time may prescribe. Whenever the tax district ***deems***[~~judges~~] it necessary, ***the tax district***[~~it~~] may require a business entity, by notice served to the business entity, to make a return, render[~~ under oath~~] statements ***under oath***, or keep records, as the tax district deems sufficient to ***determine the tax liability of***[~~show whether or not~~] the business entity[~~ is liable for tax, and the extent of the liability~~].

(3) The tax district ***may require***, for the purpose of ascertaining the correctness of any return or for the purposes of making an estimate of the taxable income of any business entity,[~~ may require~~] the attendance of a representative of the business entity or of any other person having knowledge in the premises.

Section 5. KRS 67.770 is amended to read as follows:

(1) A tax district may grant any business entity an extension of not more than six (6) months, unless a longer extension has been granted by the Internal Revenue Service ***or is agreed to by the tax district and the business entity***, for filing its return, if the business entity, on or before the date prescribed for payment of the tax, requests the extension and pays the amount properly estimated as its tax.

(2) If the time for filing a return is extended, the business entity shall pay, as part of the tax, an amount equal to twelve percent (12%) per annum simple interest on the tax shown due on the return, but not previously paid, from the time the tax was due until the return is actually filed and the tax paid to the tax district. A fraction of a month is counted as an entire month.

Section 6. KRS 67.778 is amended to read as follows:

(1) No suit shall be maintained in any court to restrain or delay the collection or payment of ***any tax subject to the provisions of***[~~the tax levied by~~] KRS 67.750 to 67.790.

(2) Any tax collected pursuant to the provisions of KRS 67.750 to 67.790 may be refunded or credited within two (2) years of the date prescribed by law for the filing of a return or the date the money was paid to the tax district, whichever is the later, except that:

(a) In any case where the assessment period contained in KRS 67.775 has been extended by an agreement between the business entity and the tax district, the limitation contained in this subsection shall be extended accordingly.

(b) If the claim for refund or credit relates directly to adjustments resulting from a federal audit, the business entity shall file a claim for refund or credit within the time provided for in this subsection or six (6) months from the conclusion of the federal audit, whichever is later.

For the purposes of this subsection and subsection (3) of this section, a return filed before the last day prescribed by law for filing the return shall be considered as filed on the last day.

(3) Exclusive authority to refund or credit overpayments of taxes collected ***by a tax district***[~~pursuant to KRS 67.083, 68.180, 68.197, 91.200, and 92.281~~] is vested in ***that***[~~the~~] tax district.

Section 7. KRS 67.780 is amended to read as follows:

Every employer making payment of compensation ***to an employee*** shall deduct and withhold upon the ***payment of the*** compensation ***any tax imposed against the compensation by a tax district. Amounts withheld shall be paid to the levying tax district***[~~a tax determined under KRS 67.083, 68.180, 68.197, 91.200, or 92.281 and pay~~] in accordance with KRS 67.783. A tax district may impose minimum and maximum tax liabilities for the tax on compensation.

Section 8. KRS 67.788 is amended to read as follows:

(1) Where there has been an overpayment of tax under KRS 67.780, refund or credit shall be made to the employer only to the extent that the amount of the overpayment was not deducted and withheld under KRS 67.780 by the employer.

(2) Unless written application for refund or credit is received by the tax district from the employer within two (2) years from the date the overpayment was made, no refund or credit shall be allowed.

(3) An employee who has compensation attributable to activities ***performed*** outside a tax district, based on time spent outside

the tax district,[~~, but~~] whose employer has withheld and remitted the occupational license fee on the compensation ***attributable to activities performed outside the tax district to the***[~~to another~~] tax district, may file for a refund within two (2) years of the date prescribed by law for the filing of a return. The employee shall provide a schedule and computation sufficient to verify the refund claim and the tax district may confirm with the employer the percentage of time spent ***outside the tax district*** and the amount of compensation ***attributable to***[~~for~~] activities ***performed*** outside the tax district prior to approval of the refund.

Section 9. KRS 67.790 is amended to read as follows:

(1) A business entity subject to tax on gross receipts or net profits ***may be subject to***[~~shall pay~~] a penalty equal to five percent (5%) of the tax due for each calendar month or fraction thereof if the business entity:

(a) ***Fails to file***[~~Files~~] any return or report ***on or before***[~~after~~] the due date prescribed for filing or[~~ the due date~~] as extended by the tax district[~~, unless it is shown to the satisfaction of tax district that the failure to file is due to reasonable cause~~]; or

(b) Fails to pay the tax computed on the return or report on or before the due date prescribed for ***payment***[~~filing~~].

The total penalty levied pursuant to this subsection shall not exceed twenty-five percent (25%) of the total tax due; however, the penalty shall not be less than twenty-five dollars ($25).

(2) Every employer who fails to file a return or pay the tax on or before the ***date***[~~time~~] prescribed under KRS 67.783 ***may be subject to***[~~shall pay~~] a penalty in an amount equal to five percent (5%) of the tax due for each calendar month or fraction thereof. The total penalty levied pursuant to this subsection shall not exceed twenty-five percent (25%) of the total tax due; however, the penalty shall not be less than twenty-five dollars ($25).

(3) In addition to the penalties prescribed in this section, any business entity or employer shall pay, as part of the tax, an amount equal to twelve percent (12%) per annum simple interest on the tax shown due, but not previously paid, from the time the tax was due until the tax is paid to the tax district. A fraction of a month is counted as an entire month.

(4) Every tax ***subject to the provisions of***[~~imposed by~~] KRS 67.750 to 67.790, and all increases, interest, and penalties thereon, shall become, from the time ***the tax***[~~it~~] is due and payable, a personal debt ***of the taxpayer*** to the tax district[~~ from the business entity or other person liable therefor~~].

(5) In addition to the penalties prescribed in this section, any business entity or employer who willfully fails to make a return***,***[~~ or~~] willfully makes a false return, or[~~ who~~] willfully fails to pay taxes owing or collected, with ***the*** intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class A misdemeanor.

(6) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with, any matter arising under KRS 67.750 to 67.790 of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, shall be guilty of a Class A misdemeanor.

(7) A return for the purpose of this section shall mean and include any return, declaration, or form prescribed by the tax district and required to be filed with the tax district by the provisions of KRS 67.750 to 67.790, or by the rules of the tax district or by written request for information to the business entity by the tax district.

(8) ***(a)*** No present or former employee of any tax district shall intentionally and without authorization inspect or divulge any information acquired by him or her of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the tax district or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns for taxation, or any other infraction of the tax laws, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or the taxpayer's properly authorized agent with information respecting his or her own return. Further, this prohibition does not preclude any employee of the tax district from testifying in any court, or from introducing as evidence returns or reports filed with the tax district, in an action for violation of a tax district tax laws or in any action challenging a tax district tax laws.

(b) Any person who violates the provisions of paragraph (a) of this subsection by intentionally inspecting confidential taxpayer information without authorization shall be fined not more than five hundred dollars ($500) or imprisoned for not longer than six (6) months, or both.

(c) Any person who violates the provisions of paragraph (a) of this subsection by divulging confidential taxpayer information shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than one (1) year, or both.

Section 10. KRS 67.795 is amended to read as follows:

The provisions of KRS 67.750 to 67.790 shall apply on and after January 1, 2006, to all tax districts that levy an occupational license fee or a tax on net profits or gross receipts***, except that the provisions of KRS 67.750 to 67.790 shall not apply to the utilities gross receipts tax levied by school districts pursuant to KRS 160.613 and 160.614***[~~imposed under KRS 67.083, 68.180, 68.197, 91.200, and 92.281, or any other statutory provision~~]. ***A***[~~However, a~~] tax district may apply the provisions of KRS 67.750

to 67.790 to the levy of an occupational license fee or a tax on net profits or gross receipts***, except the utilities gross receipts tax levied by school districts pursuant to KRS 160.613 and 160.614,***[~~imposed under KRS 67.083, 68.180, 68.197, 91.200, and 92.281 or any other statutory provision~~] by adoption of an ordinance prior to January 1, 2006.

The Committee on State Government reported **HB 450**, with Committee Substitute attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 450, AN ACT relating to medical malpractice and making an appropriation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I.

INSURANCE FILINGS

Section 1. KRS 304.13-051 is amended to read as follows:

(1) ***(a)*** In a competitive market, every insurer shall file with the commissioner rates and supplementary information to be used in this state for ***medical malpractice risks,*** commercial risks as designated by the commissioner and for all personal risks. The rates and supplementary rate information shall be filed not later than fifteen (15) days after the date of first use of the rates, unless the commissioner finds after a hearing that an insurer's rates require closer supervision because of the insurer's financial condition. On a finding, rates for both personal and commercial risks, supplementary rate information, and supporting information shall be filed with the commissioner at least thirty (30) days before the effective date of the rates. An order shall expire no later than one (1) year after it is issued.

(b) The commissioner may, when the commissioner deems it in the public interest, hold a public hearing on any medical malpractice insurance filing under this subsection within thirty (30) days after all rates and supplementary rate information have been filed. The commissioner may extend the thirty (30) day period by an additional thirty (30) day period.

(c) As to medical malpractice insurance, at the time of filing with the commissioner a proposed rate increase, the insurer shall notify each policyholder that the insurer has filed a proposed rate increase. The notice shall state the percentage by which the policyholder's current premium is anticipated to increase if the proposed rate increase is approved as filed.

(2) In a noncompetitive market, every insurer shall file with the commissioner all rates for that market, supplementary rate information, and supporting information at least thirty (30) days before the proposed effective date of the rates. On application of the filer, the commissioner may authorize an earlier effective date.

(3) Any rate filing in effect at the time the commissioner determines that competition does not exist pursuant to KRS 304.13-041 shall be deemed to be effective until disapproved pursuant to the procedures and rating standards of this chapter.

(4) Every insurer shall file with the commissioner all rating manuals and underwriting rules that it uses in this state not later than fifteen (15) days after they become effective. Manuals, rules, and guidelines must be adhered to until amended. The commissioner may exempt an insurer from filing supporting information if it files by reference, with or without deviation, to a filing which is in effect for another insurer or an advisory organization.

(5) (a) No insurer shall place into effect any rates, manuals, or underwriting rules which it proposes to use pursuant to subsection (1) or (4) of this section if the rates, manuals or underwriting rules will result in an increase or decrease of more than twenty-five percent (25%) from the insurer's then existing rates for any classification of risks in any of its rating territories within a twelve (12) month period of time.

(b) Any insurer which proposes to change its then existing rates, manuals, or underwriting rules so as to effectively increase or decrease the rates of any classification of risks within any rating territory more than twenty-five percent (25%) within a twelve (12) month period shall file all the rates and supplemental rating information which shall not become effective until approved by the commissioner.

(6) Rates and supplemental rating information for a residual market mechanism shall not become effective until approved by the commissioner.

(7) The commissioner shall review filings made in accordance with subsections (2), (5)(b) and (6) of this section as soon as reasonably possible after they have been made in order to determine whether they meet the applicable requirements of this chapter. Each filing shall be on file for a waiting period of thirty (30) days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed thirty (30) days if he gives written notice within the waiting period to the insurer which made the filing that additional time is needed for consideration of the filing. The commissioner may, when he deems it to be in the public interest, hold a public hearing on any filing before the filing becomes effective to determine whether the filing meets the requirements of this subtitle. In the event that a hearing is held under the provisions of this subsection, the waiting periods specified in this subsection shall not begin to run until thirty (30) days after the close of the hearing. The burden of establishing that the filing under consideration meets the requirements of this subtitle is on the insurer which makes the filing. A filing shall be deemed to meet the requirements of this subtitle unless disapproved by the commissioner within the waiting period or any extension thereof.

(8) At any hearing concerning an increase in worker's compensation rates conducted pursuant to subsection (7), the commissioner may approve a rate other than one that has been proposed by the filer if it is justified by the evidence presented at the hearing.

SECTION 2. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Every medical malpractice insurer shall, before the first of March, 2005, and before the first of March in each year thereafter, file with the commissioner a medical malpractice insurance premium and market statement for the preceding calendar year which shall report the following data in aggregate by rating territory and by specialty in a format approved by the department:

(1) The annual premium resulting from manual rates for new and renewal policies with effective dates in the time period;

(2) The annual premium actually charged for these policies;

(3) The number of new policies;

(4) The number of renewal policies;

(5) The number of canceled policies;

(6) The number of non-renewed policies;

(7) The average adjustment in premium written due to experience rating;

(8) The average adjustment in premium written due to schedule rating; and

(9) The average adjustment in premium written due to any other discretionary rating factors.

PART II.

KENTUCKY HEALTH CARE PROVIDERS' MUTUAL INSURANCE AUTHORITY

SECTION 3. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds and declares:

(a) An adequate and available medical malpractice insurance market does not exist for all licensed health care providers in the Commonwealth;

(b) Medical malpractice insurance premiums have risen rapidly since 2000 after a decade of relatively flat prices;

(c) A lack of an adequate market for medical malpractice insurance threatens the economic welfare of the Commonwealth;

(d) It is in the interest of all Kentuckians that health care providers have the protection and availability of affordable medical malpractice insurance to practice medicine and that a means be provided to indemnify citizens of the Commonwealth who suffer injury and damages arising out of medical negligence;

(e) The General Assembly has a responsibility to ensure health care providers an available and adequate insurance mechanism through which health care providers may practice medicine in the Commonwealth and to ensure citizens that an adequate number of health care providers will be available to meet their health care needs across the Commonwealth; and

(f) Other states have created insurance entities to make medical malpractice insurance available to their health care providers in response to the need to ensure the availability of affordable medical malpractice insurance.

(2) Therefore, it is the intent of the General Assembly in creating the Kentucky Health Care Providers' Mutual Insurance Authority to establish a self-supporting competitive state fund for the purpose of providing both a market of last resort for health care providers in the Commonwealth and another competitive source of insurance in the market through which health care providers may secure and maintain their medical malpractice coverage.

SECTION 4. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Health Care Providers' Mutual Insurance Authority is created as a nonprofit, independent, self-supporting de jure municipal corporation and political subdivision of the Commonwealth which shall be a public body corporate and politic to insure health care providers in the Commonwealth for medical malpractice. The General Assembly hereby recognizes that the operation of a competitive state fund is a unique activity for state government and that a corporate structure will best enable the authority to be managed in an entrepreneurial and business-like manner. The authority shall function in a manner similar to a governing board for a domestic mutual insurance company and shall be subject to the provisions of this chapter applicable to domestic mutual insurance companies, unless otherwise provided or exempted in Sections 3 to 23 of this Act.

(2) Except for initial funding for start-up, the authority shall be entirely self-supporting.

(3) The authority or its liabilities shall not be deemed to constitute a debt or a liability of the Commonwealth or a pledge of the faith and credit of the Commonwealth.

(4) The authority shall provide coverage and issue policies as an insurer in the voluntary market and as an insurer of last resort.

SECTION 5. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 3 to 23 of this Act, unless the context otherwise requires:

(1) "Authority" means the Kentucky Health Care Providers' Mutual Insurance Authority.

(2) "Board" means the board of directors of the authority.

(3) "Insurer of last resort" means an entity that provides medical malpractice coverage to any and all health care providers who comply with the provisions of Sections 3 to 23 of this Act for their business in and incidental to the Commonwealth.

(4) "Manager" means the manager of the authority.

(5) "Policyholder" means a health care provider in the Commonwealth who has secured medical malpractice coverage under this authority.

(6) "Provider" or "health care provider" means:

(a) Any facility or service required to be licensed pursuant to KRS Chapter 216B;

(b) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

(c) Nurses and advanced registered nurse practitioners licensed under KRS Chapter 314;

(d) Pharmacists as defined pursuant to KRS Chapter 315;

(e) Chiropractors licensed under KRS Chapter 312;

(f) Dentists licensed under KRS Chapter 313;

(g) Optometrists licensed under KRS Chapter 320;

(h) Physician assistants regulated under KRS Chapter 311;

(i) Psychologists licensed under KRS Chapter 319;

(j) Physical therapists licensed under KRS Chapter 327;

(k) Occupational therapists licensed under KRS Chapter 319A; and

(l) Any corporation, partnership, or sole proprietorship that directly provides medical services to its employees.

SECTION 6. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall be governed by a board of directors. The board shall exercise complete jurisdiction over the authority.

(2) The board shall consist of the:

(a) Secretary of the Finance and Administration Cabinet;

(b) Secretary of the Personnel Cabinet;

(c) Secretary of the Public Protection and Regulation Cabinet; and

(d) Ten (10) at-large members appointed by the Governor, subject to confirmation by the Senate. At least two (2) of the members shall be health care providers who hold valid and effective licenses as health care providers issued by the State Board of Medical Licensure under KRS Chapter 311.

(3) Any vacancy which occurs prior to the expiration of a term shall be filled by the Governor in the same manner as the initial appointment was made, and the new appointee shall serve only the remainder of the unexpired term.

(4) No person shall serve on the board who:

(a) Fails to meet or comply with the conflict of interest policies established by the board and KRS 304.24-270;

(b) Is not bondable;

(c) Is an employee, attorney, or contractor of a competing insurer providing medical malpractice insurance in the Commonwealth; or

(d) Is not a resident of this Commonwealth.

(5) In making the appointments to the board, subject to Senate confirmation, the Governor shall ensure adequate representation from licensed health care providers and the major sectors of the economy and workforce in the Commonwealth.

SECTION 7. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The board shall elect a chair and other officers it deems necessary from its members. The Governor shall make the initial appointments to the board by August 1, 2004, as follows: three (3) members shall be appointed to terms that expire December 31, 2005, and four (4) members shall be appointed to terms that expire December 31, 2007. Subsequent members shall serve terms of four (4) years and shall serve until their successors are appointed and qualified.

(2) Senate confirmation of the Governor's appointees is required in accordance with the provisions of KRS 11.160. If a member is not confirmed by the Senate, the Governor, within thirty (30) days of the rejection, shall make another appointment. That member shall serve the remainder of the term in question and shall also be subject to confirmation should the term extend until the next regular session, or a special session which includes this subject on the call, whichever occurs earlier.

(3) Seven (7) members shall constitute a quorum. The board shall meet at least quarterly and at such other times as the chair may determine. The board shall also meet upon the call of five (5) or more of the members of the board.

(4) Each member, except the secretaries of the cabinets, shall be compensated twelve thousand dollars ($12,000) annually. In addition, the members of the board, except the secretaries of the cabinets, shall be reimbursed for necessary travel and lodging expenses in accordance with administrative regulations promulgated by the Cabinet for Finance and Administration for state employees.

(5) A board member, except the secretaries of the cabinets, may be removed for cause by the board. Cause shall include, but not be limited to, incompetence or misconduct defined in policies or bylaws adopted by the board.

SECTION 8. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The board of directors of the authority shall function in a manner similar to the governing body of a mutual insurance company established pursuant to this chapter, with all of the general corporate powers incidental thereto. The powers and duties of the board shall include, but not be limited to, the power to:

(1) Sue;

(2) Hire a manager to administer the authority in accordance with the policies and procedures of the board;

(3) Hire an internal auditor who shall serve at the pleasure of and report directly to the board on the internal operations of the authority;

(4) Adopt a corporate seal;

(5) Develop and file with the Legislative Research Commission bylaws for the operation of the authority;

(6) Examine and adopt an annual operating budget for the authority;

(7) Serve as investment trustees and fiduciaries of the authority in accordance with the provisions of KRS Chapter 386;

(8) Incur debt in its own name and enter into financing agreements with the Commonwealth, its own agencies, or with a commercial bank;

(9) Develop policy for the operation of the authority consistent with its mission and fiduciary responsibility;

(10) Adopt a procurement policy consistent with the provisions of KRS Chapter 45A, including competitive bidding procedures;

(11) Develop and publish an annual report to policyholders, the Governor, the General Assembly, and interested parties that describes the financial condition of the authority, including a statement of expenses, income, and actuarial soundness;

(12) Pursuant to this chapter, determine and establish an actuarially-sound price for insurance offered by the authority, including any dividends or deviations;

(13) Pursuant to Section 14 of this Act, assess policyholders;

(14) Employ a qualified firm to conduct an internal review and management or performance audit of the internal operations of the authority as needed or determined by the board, Attorney General, or Auditor of Public Accounts;

(15) Approve all contracts entered into by the authority, in accordance with the bylaws and procurement policy of the board;

(16) Conduct annually an independent audit of the financial condition of the authority; and

(17) Perform all other acts necessary or convenient in the exercise of any power, authority, or jurisdiction over the authority, either in the administration or in connection with the business of the authority to fulfill the purpose of Sections 3 to 23 of this Act.

SECTION 9. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Following a nationwide search, the board shall hire a manager, subject to Senate confirmation in accordance with KRS 11.160, who shall serve at the pleasure of the board. The manager shall be compensated at a level determined by the board.

(2) The manager shall have proven successful experience for a period of at least five (5) years as an executive at the general management level in insurance operations or in the management of a state fund for medical malpractice.

(3) The manager shall conduct the day-to-day operations of the authority for the purpose of carrying out the policies and procedures of the board. The duties of the manager include but are not limited to:

   (a) Administering all operations of the authority in accordance with the direction of the board;

   (b) Recommending to the board an annual administrative budget covering the operations of the authority and, upon approval, submitting the administrative budget, financial status, and actuarial condition of the authority to the Governor and the General Assembly for their examination;

   (c) Directing and controlling all expenditures of the approved budget;

   (d) From time to time, upon the recommendation of an actuary, recommending to the board actuarially-sound rating plans, and the amount of dividends, if any, to be returned to policyholders;

   (e) Investing the assets of the authority under the guidance of the board and in accordance with the provisions of

Subtitle 7 of this chapter;

(f) Recommending to the board and administering a system of personnel administration;

(g) Preparing and administering fiscal, payroll, accounting, data processing, and procurement procedures for the operation of the authority;

(h) Recommending to the board bylaws and uniform procedures for the management of the authority;

(i) Within the limitations of the budget, employing necessary staff personnel in accordance with the personnel policies of the board;

(j) Maintaining appropriate levels of property, casualty, and liability insurance as approved by the board to protect directors, officers, employees, and assets of the authority; and

(k) Contracting for claims administration, legal defense, actuaries, financial services, and other services which the manager elects to obtain outside employed staff.

(4) The manager may:

(a) Reinsure any risk or part of any risk;

(b) Establish procedures for adjusting claims in accordance with this chapter; and

(c) Require policyholders to maintain an adequate deposit to provide security for periods of coverage for which premiums have not been paid.

(5) The manager shall give an official bond in an amount and with sureties approved by the board. The premium for the bond shall be paid by the authority.

(6) The provisions of KRS Chapters 18A and 64 shall not apply to the board, the manager, or the staff of the authority; however, the board shall adopt a system of personnel administration that includes benefits, grievance procedures, training and compensation.

SECTION 10. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The authority may provide coverage for medical malpractice insurance to any health care provider who tenders the required premium for coverage and who complies with other conditions and qualifications for obtaining and maintaining coverage adopted by the authority to protect and ensure its actuarial soundness and solvency.

(2) The authority shall provide coverage to any health care provider who is unable to secure coverage in the voluntary market unless the health care provider owes undisputed premiums to a previous medical malpractice carrier or to a medical malpractice residual market mechanism.

SECTION 11. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The authority, through its board and manager, shall establish separate rating plans, rates, and underwriting standards for different classes of risks for the authority.

(2) The rating plans, rates, and underwriting standards developed for the categories of risk shall be based on generally-accepted actuarial practices and procedures as set forth in the Statement of Principles Regarding Property and Casualty Ratemaking of the Casualty Actuarial Society, in accordance with the actuarial standards of practice and compliance guidelines of the Actuarial Standards Board. In developing rates, due consideration shall be given to risk management practices. The rates shall be actuarially sound for both the voluntary market and the market of last resort and set at levels which are expected, in the aggregate, to be sufficient to pay all medical malpractice claims incurred by the participating health care provider risks and other permitted expenses of the authority.

(3) Multitiered premium or rating plans may be developed to provide medical malpractice coverage to insureds in the Commonwealth.

(4) The manager shall develop statistical and other information as necessary to distinguish its writings in the voluntary market, and its writings as a market of last resort.

(5) The rates established by the authority for its policyholders shall be based only on Kentucky loss experience data.

(6) Any and all rates, whether for the voluntary market or the market of last resort, established by the board are deemed competitive and shall be filed with the insurance commissioner in accordance with this chapter in the same manner as any other mutual insurance company writing medical malpractice coverage in the Commonwealth.

(7) Notwithstanding any provision of this chapter to the contrary, the surplus requirements for mutual insurance companies in the Commonwealth shall not apply to the authority until the authority has been in operation for eighty-four (84) months, unless modified by the General Assembly. In addition to other reporting requirements in Sections 3 to 23 of this Act, the authority shall report to the Interim Joint Committee on Banking and Insurance of the General Assembly, no later than October 31 of each year, on the status of its efforts to build and maintain a surplus as required by this chapter.

SECTION 12. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

On an annual basis, the board may declare a dividend in accordance with Subtitle 24 of this chapter, and distribute the same in the form of premium discounts, dividends, or a combination of dividends and discounts, at its discretion, if:

(1) Any funding obtained pursuant to subsection (2) of Section 17 of this Act has been repaid in full;

(2) An independent actuarial report of the prior year's operations has been completed and reviewed by the board;

(3) The authority has met all expenses for administration and claims for the prior year; and

(4) Adequate reserves exist to pay all claims.

SECTION 13. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

On a quarterly basis, the manager shall prepare a report of assets and liabilities, which shall also include a statement of condition regarding the solvency of the authority, when awarded claims to date and estimated initial claims not reported are taken into account. This report shall be a public record and shall be provided to the board, the Governor, and the Legislative Research Commission.

SECTION 14. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In determining the solvency of the authority in regard to maintaining adequate reserves, the commissioner of insurance, the independent accountant engaged for the annual audit, and the board, in exercising its prudent stewardship, shall not utilize the practice of "discounting" the funds to reduce future liabilities, except in conformity with standards or rules promulgated by the National Association of Insurance Commissioners.

(2) The authority shall file reports required by KRS 304.3-240.

(3) The authority shall file a report not later than March 31 of each year indicating the business done by the authority during the previous year, including a balance sheet showing assets and liabilities at the beginning and conclusion of that year. The report shall be a public record and shall be delivered to the Governor, commissioner of insurance, Auditor of Public Accounts, Attorney General, and the co-chairs of the Legislative Research Commission. Additionally, a statement of solvency shall be prepared which shall include, at a minimum:

  (a) A summary of the prior quarterly reports required in Section 13 of this Act;

  (b) A management projection of the future solvency status for the authority; and

  (c) Any recommendations pertaining to paragraphs (a) and (b) of this subsection.

(4) The authority shall not enter into any contract with a certified public accountant for an audit unless the Auditor of Public Accounts has declined in writing to perform the audit or has failed to respond within thirty (30) days of receipt of a written request for an audit. Any contract with a certified public accountant entered into as a result of the Auditor of Public Accounts declining to perform the audit shall specify the following:

  (a) That the certified public accountant shall forward a copy of the audit report and management letters to the Auditor of Public Accounts, Attorney General, and Legislative Research Commission; and

  (b) That the Auditor of Public Accounts shall have the right to review the certified public accountant's work papers.

(5) If at any time the assets of the authority are less than its liabilities, the board may levy an assessment on its policyholders in the manner provided in Subtitle 24 of this chapter.

SECTION 15. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The board shall formulate and adopt an investment policy that safeguards the value of all assets and maximizes investment potential commensurate with risk and liquidity restrictions, and supervise the investment activities of the authority subject to the limitations on domestic insurance companies under this chapter. Notwithstanding any provisions of the KRS to the contrary, the authority may utilize the investment expertise and advice of the Office of Financial Management in the Finance and Administration Cabinet. The authority shall also retain an independent investment counsel or managers who shall be subject to standards applicable to fiduciaries responsible for safeguarding assets of a corporation.

SECTION 16. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The manager shall compile and maintain statistical and actuarial data related to the determination of proper premium rate levels, the incidence of acts of medical malpractice, costs related to those acts, including medical and indemnity, and other data necessary for the development of fair and equitable rates and rating plans.

SECTION 17. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall not receive any direct state general fund appropriation.

(2) Initial funding for the Kentucky Medical Mutual Insurance Authority shall be determined by the Governor and the secretary of the Finance and Administration Cabinet. Funding methods may include, but not be limited to, a loan from an existing state agency or agencies to the authority. The maximum amount borrowed from all state agencies shall not exceed seven million dollars ($7,000,000), to be repaid over a period not to exceed ten (10) years from the original loan

date. The Governor shall have the authority to provide or secure additional funding necessary to maintain, for the first thirty-six (36) months of its operation, the surplus the Governor deems proper. The additional funding may come from any funds which may be expended directly by the Governor or from nonstate-agency sources and, regardless of source, shall be a loan to the authority. The rate of interest to be applied to the loan shall be one percent (1%) higher than the average for the long-term investment folder of the lending agency on the anniversary date of the original loan. The interest rate shall be adjusted annually on the anniversary date of the original loan. To minimize cash requirements and interest obligations, the loan shall be executed as a line of credit against the lending agency, so that only those funds actually required for initial start-up operations, including the establishment of a surplus and reinsurance expenses, are drawn down on an "as needed" basis.

(3) Any executive branch agency of the Commonwealth and any public corporation created by the Commonwealth, any statute to the contrary notwithstanding, may lend money to the authority subject to the terms and conditions of this section, and any loan made pursuant to this section shall not be construed as a breach or violation of fiduciary duties contained in KRS Chapter 386.

(4) The board may authorize other means of initial funding, including an annual or one-time surcharge levied on health care providers insured by the authority in the amount and according to the terms established by the board.

(5) Funding methods for the creation, continued development, and operation of the authority may also include issuance of revenue bonds from time to time, in a principal amount outstanding not to exceed forty million dollars ($40,000,000) at any given time, payable solely from premiums received from insurance policies and other revenues generated by the authority, subject to the following provisions:

(a) The authority may issue bonds to refund other bonds issued pursuant to this section;

(b) The bonds shall have a maturity of no more than ten (10) years from the date of issuance. The authority shall determine all other terms, covenants, and conditions of the bonds, except no bonds may be redeemed prior to maturity unless the authority has established adequate reserves for the risks it has insured;

(c) The bonds shall be executed with the manual or facsimile signature of the manager of the chair of the board and attested by another member of the board. The bonds may bear the seal, if any, of the authority;

(d) The proceeds of the bonds and the earnings on those proceeds shall be used by the authority for the development and operation of the authority, to pay expenses incurred in the preparation, issuance, and sale of the bonds, and to pay any obligations relating to the bonds and the proceeds of the bonds under the United States Internal Revenue Code;

(e) The bonds may be sold at a public sale or a private sale. If the bonds are sold at a public sale, the notice of sale and other procedures for the sale shall be determined by the authority or its designated representative.

(f) This section is full authority for the issuance and sale of bonds and the bonds shall not be invalid for any irregularity or defect in the proceedings for their issuance and sale and shall be incontestable in the hands of bona fide purchasers or holders of the bonds for value;

(g) Approval by the secretary of the Finance and Administration Cabinet shall be required for any issuance of bonds under this section.

(6) Funds collected by the authority shall not:

(a) Be loaned to the Commonwealth or any instrumentality or agency thereof;

(b) Be subject to transfer to the Commonwealth or any agency or instrumentality thereof, except for repayment of the loan authorized in subsections (2) and (3) of this section; or

(c) Be expended for any other purposes than as authorized by Sections 3 to 23 of this Act and KRS 304.13-340.

SECTION 18. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For marketing and sales purposes, the authority shall utilize only agents duly and legally licensed and in good standing in accordance with the provisions of this chapter to sell coverage provided by the authority.

(2) Commissions paid for marketing or sales by an insurance agent shall be determined by the manager, subject to the approval of the board.

SECTION 19. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No member of the board, the manager, or any employee of the authority shall be held personally liable for any act performed or for any contract or other obligation entered into or undertaken in an official capacity, in connection with the administration, management, or conduct of the authority, its funds and other assets, its business, or other related affairs.

SECTION 20. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The board, manager, and employees shall comply with the code of ethics applicable to the Executive Branch pursuant to KRS Chapter 11A.

(2) In addition to compliance with the code of ethics required in subsection (1) of this section, no member of the board shall have any direct or indirect interest in any undertaking that puts the member's personal interest in conflict with that of the authority. A personal interest shall include, but not be limited to, an interest in a major procurement.

SECTION 21. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provision of this chapter to the contrary, the authority shall be exempt from participation, and shall not join, contribute financially to, nor be entitled to the protection of, any plan, pool, association, guarantee, or insolvency fund authorized or required by this chapter.

(2) Except as provided in subsection (1) of this section, the authority shall be subject to the same assessments applicable to medical malpractice premiums as domestic mutual insurance companies licensed to do business in the Commonwealth and governed by the provisions of Subtitle 24 of this chapter.

(3) Notwithstanding the provisions of Subtitle 24 of this chapter or any other provisions of the KRS to the contrary, the minimum number of directors and procedures required for incorporating a mutual insurance company, requirements relating to the name of a mutual insurance company, and any licensing requirements applicable to mutual insurance companies shall not apply to the authority.

(4) Notwithstanding any provision of this chapter to the contrary the authority shall not be subject to the provisions of Subtitle 33 or other provisions of KRS Chapter 304 that relate to the liquidation, rehabilitation, dissolution, or sale of any insurance company.

SECTION 22. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The board shall comply with KRS Chapter 61 in regard to open meetings and open records in the conduct of ordinary business. In addition to the exemptions listed in KRS Chapter 61, proceedings to discuss rates, proposed rates, or anything that relates to rates if that discussion would jeopardize the competitiveness of the authority may be closed, as well as, proceedings which would provide an unfair competitive advantage to private sector competitors providing medical malpractice coverage in the Commonwealth.

(2) All records of the authority shall be deemed open records and subject to public inspection, unless:

(a) The record is excluded from inspection under KRS Chapter 61;

(b) The record includes information that would provide an unfair competitive advantage to private sector competitors providing medical malpractice coverage in the Commonwealth;

(c) In addition to the exemption provided by KRS 61.878(1)(c)1., the record is generated by the authority, generally recognized as confidential or proprietary, and which if openly disclosed would permit an unfair commercial advantage to competitors of the authority or other entity to which the record relates; and

(d) The record relates to a fraud investigation conducted by the authority and that does not become evidence in a criminal or civil action.

SECTION 23. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The Attorney General and the Auditor of Public Accounts shall monitor the operations of the authority.

(2) Either the Attorney General or the Auditor of Public Accounts, or both, may make at any time any examinations or investigations, jointly or severally, of the operations, practices, management, or other matters relating to the authority as they deem necessary. Either of them shall have the power to subpoena witnesses and records for these purposes, and otherwise to compel the giving of evidence for any matter under study. The Attorney General, the Auditor of Public Accounts, or any employee authorized by either of them may require the giving of this evidence under oath and may administer the oath. Any person voluntarily providing information or evidence may be required to do so under oath administered by the Attorney General, the Auditor of Public Accounts, or any employee authorized by either of them. If any person fails or refuses to testify or furnish documentary evidence concerning any matter requested, the Franklin Circuit Court, on application of either the Attorney General or the Auditor of Public Accounts or both, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the Circuit Court or of a refusal to testify in the Circuit Court.

(3) The Attorney General and the Auditor of Public Accounts shall have without restriction:

(a) Full access to all records of the authority, except that confidential medical records of employees of insureds are available only by subpoena;

(b) Full access to all financial transactions and investigations of the authority; and

(c) The right to attend all meetings of the board and its committees.

(4) If fraud, mismanagement, illegal activity, imprudent practices, or other deficiencies are found in the operations or other practices of the authority, the Attorney General or Auditor of Public Accounts, or both shall:

(a) Recommend internal corrective action;

(b) Institute a civil action or action for injunctive relief to compel corrective action;

(c) Institute criminal proceedings against any officer or employee of the authority or any other person, as defined in KRS 446.010, as may be necessary; or

(d) Any combination of the above listed actions or any other form of action reasonably calculated to assure efficient and honest operations of the authority and those involved with it.

(5) The Attorney General and the Auditor of Public Accounts shall report jointly to the General Assembly in January of each year in which the General Assembly convenes in an even-numbered-year regular session the results of the monitoring activities required by this section.

PART III.

MEDICAL REVIEW PANEL

SECTION 24. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

As used in Sections 24 to 32 of this Act, unless the context requires otherwise:

(1) "Malpractice" means a tort or breach of contract based on health care provider services that were provided, or that should have been provided, by a health care provider to a patient;

(2) "Patient" means an individual who receives or should have received health care from a health care provider, under a contract, express or implied, and includes a person having a claim of any kind, whether derivative or otherwise, as a result of alleged malpractice on the part of a health care provider. Derivative claims include the claim of a parent or parents, guardian, trustee, child, relative, attorney, or any other representative of the patient including claims for loss of services, loss of consortium, expenses, and other similar claims; and

(3) "Health care provider" means:

(a) Any facility or service required to be licensed pursuant to KRS Chapter 216B;

(b) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

(c) Nurses and advanced registered nurse practitioners licensed under KRS Chapter 314;

(d) Pharmacists licensed under KRS Chapter 315;

(e) Chiropractors licensed under KRS Chapter 312;

(f) Dentists licensed under KRS Chapter 313;

(g) Optometrists licensed under KRS Chapter 320;

(h) Physician assistants regulated under KRS Chapter 311;

(i) Psychologists licensed under KRS Chapter 319;

(j) Physical therapists licensed under KRS Chapter 327;

(k) Occupational therapists licensed under KRS Chapter 319A; and

(l) Any corporation, partnership, or sole proprietorship that directly provides medical services to its employees.

SECTION 25. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) Sections 24 to 32 of this Act provide for establishment of medical review panels to review malpractice complaints against health care providers.

(2) Not earlier than twenty (20) days after the filing of a complaint, and no later than thirty (30) days after the filing of the responsive pleading in any action brought for malpractice against a health care provider, either party may request the formation of a medical review panel by serving a request by registered or certified mail upon all parties and by filing a copy of the request with the clerk of the Circuit Court in which the malpractice action was filed.

(3) If a panel is requested, proceedings on the action based on the alleged malpractice shall be stayed during the period of review by the medical review panel, except that the judge hearing the case may rule on any motions, demurrers, or pleas that can be disposed of as a matter of law, set the trial date after the panel has been selected and, prior to the selection of the panel, shall rule on any motions to transfer venue.

SECTION 26. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) (a) A medical review panel consists of one (1) attorney and three (3) health care providers.

(b) The attorney member of the medical review panel shall act as chair of the panel and in an advisory capacity, but may not vote.

(c) The chair shall expedite the selection of the other panel members, convene the panel, and expedite the panel's review of the proposed complaint. The chair may establish a reasonable schedule for submission of evidence to the medical review panel but must allow sufficient time for the parties to make full and adequate presentation of related facts and authorities.

(2) A medical review panel shall be selected in the following manner:

(a) Within fifteen (15) days after the filing of a request for formation of a medical review panel under Section 25 of this Act, the parties shall select a panel chair by agreement. If no agreement on a panel chair can be reached,

either party may request the clerk of the Circuit Court to draw at random a list of five (5) names of attorneys who:

1. Are qualified to practice;

2. Are presently on the rolls of the Circuit Court; and

3. Maintain offices in the county of venue designated in the proposed complaint or in a contiguous county.

(b) Before selecting the random list, the clerk shall collect a twenty-five dollar ($25) medical review panel selection fee from the party making the request for the formation of the random list.

(c) The clerk shall notify the parties, and the parties shall then strike names alternately with the plaintiff striking first until one (1) name remains. The remaining attorney shall be the chair of the panel.

(d) After the striking, the plaintiff shall notify the chair and all other parties of the name of the chair.

(e) If a party does not strike a name within five (5) days after receiving notice from the clerk:

1. The opposing party shall, in writing, request the clerk to strike for the party; and

2. The clerk shall strike for that party.

(f) When one (1) name remains, the clerk shall within five (5) days notify the chair and all other parties of the name of the chair.

(g) Within fifteen (15) days after being notified by the clerk of being selected as chair, the chair shall:

1. Send a written acknowledgment of appointment to the clerk; or

2. Show good cause for relief from serving as provided in subsection (2) of Section 27 of this Act.

(3) All health care providers in Kentucky, whether in the teaching profession or otherwise, who hold a license to practice in their profession shall be available for selection as members of the medical review panel.

(4) Each party to the action has the right to select one (1) health care provider who does not regularly practice in the county of venue designated in the complaint, and upon selection, the two (2) health care providers thus selected shall select the third panelist.

(5) If there are multiple plaintiffs or defendants, only one (1) health care provider shall be selected per side. The plaintiff, whether single or multiple, has the right to select one (1) health care provider and the defendant, whether single or multiple, has the right to select one (1) health care provider.

(6) If the individual defendant is a health care provider who specializes in a limited area, two (2) of the panelists selected must be health care providers who specialize in the same area as the defendant.

(7) Within fifteen (15) days after the chair is selected, both parties shall select a health care provider member and the parties shall notify the other party and the chair of their selection. If a party fails to make a selection within the time provided, the chair shall make the selection and notify both parties. Within fifteen (15) days after their selection, the members shall select the third member within the time provided and notify the chair and the parties. If the health care provider members fail to make a selection, the chair shall make the selection and notify both parties.

(8) Within ten (10) days after the selection of a panel member, written challenge without cause may be made to the panel member. Upon challenge or excuse, the party whose appointee was challenged or dismissed shall select another panelist. If the challenged or dismissed panel member was selected by the other two (2) panel members, the panel members shall make a new selection. If two (2) such challenges are made and submitted, the chair shall within ten (10) days appoint a panel consisting of three (3) qualified panelists and each side shall, within ten (10) days after the appointment, strike one (1) panelist. The party whose appointment was challenged shall strike last, and the remaining member shall serve.

SECTION 27. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) When a medical review panel is formed, the chair shall, within five (5) days, notify the clerk of the Circuit Court and the parties by registered or certified mail of the following:

(a) The names and addresses of the panel members; and

(b) The date on which the last member was selected.

(2) (a) A member of a medical review panel who is selected under Sections 24 to 32 of this Act shall serve unless:

1. The parties by agreement excuse the panelist; or

2. The panelist is excused as provided in this section for good cause shown.

(b) To show good cause for relief from serving, the attorney selected as chair of a medical review panel must serve an affidavit upon the clerk of the Circuit Court. The affidavit must set out the facts showing that service would constitute an unreasonable burden or undue hardship. The clerk may excuse the attorney from serving. The attorney shall notify all parties, who shall then select a new chair as provided in subsection (2) of Section 26 of this Act.

(c) To show good cause for relief from serving, a health care provider member of a medical review panel must serve an affidavit upon the panel chair. The affidavit must set out the facts showing that service would

constitute an unreasonable burden or undue hardship. The chair may excuse the member from serving and notify all parties.

(3) A party, attorney, or panelist who fails to act as required by Sections 24 to 32 of this Act without good cause shown is subject to mandate or appropriate sanctions upon application to the court designated in the proposed complaint as having jurisdiction.

(4) (a) The circuit judge hearing the case may remove the chair of the panel if the judge determines that the chair is not fulfilling the duties imposed upon the chair by Sections 24 to 32 of this Act.

(b) If the chair is removed under this section, a new chair shall be selected under Sections 24 to 32 of this Act.

(5) (a) The chair may remove a member of the panel if the chair determines that the member is not fulfilling the duties imposed upon the panel members by Sections 24 to 32 of this Act.

(b) If a member is removed under this section, a new member shall be selected under Sections 24 to 32 of this Act.

SECTION 28. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) The evidence in written form to be considered by the medical review panel shall be promptly submitted by the respective parties.

(2) The evidence may consist of medical charts, x-rays, lab tests, excerpts of treatises, depositions of witnesses including parties, and any other form of evidence allowable by the medical review panel.

(3) Depositions of parties and witnesses may be taken before the convening of the panel.

(4) The chair shall ensure that before the panel gives its expert opinion under Section 30 of this Act, each panel member has the opportunity to review every item of evidence submitted by the parties.

(5) Before considering any evidence or deliberating with other panel members, each member of the medical review panel shall take an oath in writing on a form provided by the panel chair, which must read as follows: "I (swear) (affirm) under penalties of perjury that I will well and truly consider the evidence submitted by the parties; that I will render my opinion without bias, based upon the evidence submitted by the parties, and that I have not and will not communicate with any party or representative of a party before rendering my opinion, except as authorized by law.".

SECTION 29. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) Neither a party, a party's agent, a party's attorney, nor a party's insurance carrier may communicate with any member of the panel, except as authorized by law, before the giving of the panel's expert opinion under Section 30 of this Act.

(2) The chair of the panel shall advise the panel relative to any legal question involved in the review proceeding and shall prepare the opinion of the panel as provided in Section 30 of this Act.

(3) (a) Either party, after submission of all evidence and upon ten (10) days notice to the other side, has the right to convene the panel at a time and place agreeable to the members of the panel. Either party may question the panel concerning any matters relevant to issues to be decided by the panel before the issuance of the panel's report.

(b) The chair of the panel shall preside at all meetings. Meetings shall be informal.

(4) (a) The panel has the right and duty to request all necessary information;

(b) The panel may consult with medical authorities;

(c) The panel may examine reports of other health care providers necessary to fully inform the panel regarding the issue to be decided; and

(d) Both parties shall have full access to any material submitted to the panel.

(5) A panelist has absolute immunity from civil liability for all communications, findings, opinions, and conclusions made in the course and scope of duties prescribed by Sections 24 to 32 of this Act.

SECTION 30. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) The panel has the sole duty to express the panel's expert opinion as to whether or not the evidence supports the conclusion that the defendant or defendants acted or failed to act within the appropriate standards of care as charged in the complaint.

(2) After reviewing all evidence and after any examination of the panel by counsel representing either party, the panel shall, within thirty (30) days, give one (1) or more of the following expert opinions, which must be in writing and signed by the panelists:

(a) The evidence supports the conclusion that the defendant or defendants failed to comply with the appropriate standard of care as charged in the complaint.

(b) The evidence does not support the conclusion that the defendant or defendants failed to meet the appropriate standard of care as charged in the complaint.

(c) There is a material issue of fact, not requiring expert opinion, bearing on liability for consideration by the court or jury.

(d) The conduct complained of was or was not a factor of the resultant damages. If so, whether the plaintiff

suffered:

1. Any disability and the extent and duration of the disability; and

2. Any permanent impairment and the percentage of the impairment.

(3) A report of the expert opinion reached by the medical review panel is admissible as evidence in any action brought by the claimant in a court of law. However, the expert opinion is not conclusive, and either party, at the party's cost, has the right to call any member of the medical review panel as a witness. If called, a witness shall appear and testify.

(4) The chair shall submit a copy of the panel's report to:

(a) The circuit clerk; and

(b) All parties and attorneys,

by registered or certified mail within five (5) days after the panel gives its opinion.

SECTION 31. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) The panel shall give its expert opinion within one hundred eighty (180) days after the selection of the last member of the initial panel. However, if:

(a) The chair of the panel is removed under subsection (4) of Section 27 of this Act, another member of the panel is removed under subsection (5) of Section 27 of this Act, or any member of the panel, including the chair, is removed by a court order; and

(b) A new member is selected to replace the removed member more than ninety (90) days after the last member of the initial panel is selected;

the panel has ninety (90) days after the selection of the new member to give an expert opinion.

(2) If the panel has not given an opinion within the time allowed under subsection (1) of this section, the panel shall submit a report to the Circuit Judge, stating the reasons for the delay.

SECTION 32. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) Each health care provider member of the medical review panel is entitled to be paid:

(a) Up to three hundred fifty dollars ($350) for all work performed as a member of the panel, exclusive of time involved if called as a witness to testify in court; and

(b) Reasonable travel expense.

(2) The chair of the panel is entitled to be paid:

(a) At the rate of two hundred fifty dollars ($250) per diem, not to exceed two thousand dollars ($2,000); and

(b) Reasonable travel expenses.

(3) The chair shall keep an accurate record of the time and expenses of all the members of the panel. The record shall be submitted to the parties for payment with the panel's report.

(4) Fees of the panel, including travel expenses and other expenses of the review, shall be paid by the side in whose favor the majority opinion is written. If there is no majority opinion, each side shall pay fifty percent (50%) of the cost.

PART IV.

MEDIATION

SECTION 33. A NEW SECTION OF KRS CHAPTER 454 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "health care provider" means:

(a) Any facility or service required to be licensed pursuant to KRS Chapter 216B;

(b) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

(c) Nurses and advanced registered nurse practitioners licensed under KRS Chapter 314;

(d) Pharmacists licensed under KRS Chapter 315;

(e) Chiropractors licensed under KRS Chapter 312;

(f) Dentists licensed under KRS Chapter 313;

(g) Optometrists licensed under KRS Chapter 320;

(h) Physician assistants regulated under KRS Chapter 311;

(i) Psychologists licensed under KRS Chapter 319;

(j) Physical therapists licensed under KRS Chapter 327;

(k) Occupational therapists licensed under KRS Chapter 319A; and

(l) Any corporation, partnership, or sole proprietorship that directly provides medical services to its employees.

(2) All lawsuits involving claims of professional negligence against health care providers shall be subject to mediation, to fully explore possibilities for a prompt and fair voluntary settlement of claims.

(3) The mediation shall take place within ninety (90) days after all responsive pleadings are filed in the lawsuit, unless the parties obtain a court order extending the time.

(4) Parties may consent to a postponement of up to sixty (60) days.

(5) Parties may opt out of mediation only by obtaining a court order exempting them.

(6) Parties may mutually agree to select a mediator of their choice or, if they cannot agree within twenty (20) days after all responsive pleadings are filed in the lawsuit, a mediator shall be appointed by the court in which the action is pending.

(7) At least seven (7) days before the mediation, parties shall provide the mediator with a statement of issues, which identifies the issues in dispute and the parties' positions and interests. The pleadings and any documents of importance to the case shall be included.

(8) If any party fails to submit a statement of issues or to attend within the first thirty (30) minutes of the mediation session, the mediator may cancel the mediation and file with the court a certificate of noncompliance. The party responsible for the cancellation will be required to pay any cancellation fees charged by the mediator and may be subject to sanctions imposed by the court.

(9) The mediation may be held anywhere that is acceptable to the parties, such as the mediator's office, the office of any party or lawyer, or at the court facilities.

(10) All parties and, if they are represented, their lawyers and, if they are insured, a representative of their insurer shall attend the mediation. A lawyer may not attend in the place of a party. Those present shall have authority to settle the case and the parties shall extend authority to settle to their insurers, if any, where consent to settle is required by the policy of insurance. If a corporation, partnership, or other organization is a claimant or a defendant, it shall be represented by an individual who is authorized to make a decision on its behalf.

(11) Agreements resolving some or all of the issues in dispute shall be in writing and signed by the parties or their lawyers. If the parties settle the case, the parties shall file a notice with the court advising of the settlement with ten (10) days of the agreement being signed. Agreements reached at mediation are legally binding. If a party fails to comply with a signed agreement, any other party to the agreement may bring a motion for judgment under the terms of the agreement or continue the legal proceedings as if there had been no agreement.

(12) After the session, the mediator shall complete and file a report on the outcome of the mediation with the court in which the action is pending.

(13) The mediator's fee shall be paid equally by the parties.

PART V.

LIABILITY INSURER SUBSTITUTED AS REAL PARTY IN INTEREST

SECTION 34. A NEW SECTION OF KRS CHAPTER 454 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "health care provider" means:

(a) Any facility or service required to be licensed pursuant to KRS Chapter 216B;

(b) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

(c) Nurses and advanced registered nurse practitioners licensed under KRS Chapter 314;

(d) Pharmacists licensed under KRS Chapter 315;

(e) Chiropractors licensed under KRS Chapter 312;

(f) Dentists licensed under KRS Chapter 313;

(g) Optometrists licensed under KRS Chapter 320;

(h) Physician assistants regulated under KRS Chapter 311;

(i) Psychologists licensed under KRS Chapter 319;

(j) Physical therapists licensed under KRS Chapter 327;

(k) Occupational therapists licensed under KRS Chapter 319A; and

(l) Any corporation, partnership, or sole proprietorship that directly provides medical services to its employees.

(2) In an action for medical malpractice or negligence against a health care provider, whether the health care provider is an individual, association, corporation, partnership, or institution, the plaintiff may issue interrogatories requesting all of the defendant's insurance information. Upon the issuance of interrogatories to the named defendant, the defendant shall thoroughly disclose any and all insurance policies issued to the defendant which might provide payment for any of the allegations set forth in the complaint. The defendant shall produce the name and address of the insurer, the policy number, the amount of the limits on the policy, any reinsurer's name and address, the amount of the limits on the reinsurance, the name and address of any excess insurer, and the amount of the excess insurance. Copies of the policies shall be produced upon written request.

(3) The plaintiff shall have the right to file with the court during the pending action within one hundred twenty (120) days after disclosure by the defendant of any and all insurance policies issued to the defendant pursuant to subsection (2) of this section a verified acknowledgment that the plaintiff will accept the limits of any available insurance in the payment

of any settlement or verdict against any named defendant. The acknowledgment shall bind the plaintiff from the right of collecting any personal assets of the named defendant, whether the defendant is an individual, partnership, association, corporation, or institution. If the plaintiff files the acknowledgment, the plaintiff or defendant may file a motion to substitute as the real party in interest any and all liability insurers insuring the defendant for the alleged negligent acts.

(4) Following a motion to substitute the liability insurer as the real party in interest and a court order upon the motion, the rights and obligations of the original defendant shall cede to the liability insurance company. A representative of the liability insurance company shall be seated at the counsel table and shall be the active participant at trial. The health care provider who was the original defendant shall not be required to attend the trial, except in response to a subpoena for the purposes of giving testimony.

(5) A liability insurance company shall not be liable for any damages, unless it is established that its insured was negligent or committed malpractice and that the negligence or malpractice was a substantial factor in causing the injury. The liability insurance carrier shall have no greater liability than if it were the original defendant.

PART VI.

PATIENT SAFETY

SECTION 35. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

For purposes of Sections 35 to 37 of this Act:

(1) "Adverse medical event" means an injury or death caused by medical management rather than the underlying condition of the patient;

(2) "Medical error" means an error that occurs within the health care system as a result of the failure of a planned action to be completed as intended or the use of a wrong plan to achieve an aim;

(3) "Patient safety data" means reports made to the patient safety center together with all health care data, interviews, memoranda, analysis, root cause analyses, products of quality assurance or quality improvement processes, corrective action plans, or information collected or created by a licensed health care provider or licensed health facility as a result of an occurrence related to the provision of health care services that exacerbates an existing medical condition or could result in injury, illness, or death; and

(4) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including but not limited to any process variation for which a recurrence would carry a significant chance of a serious adverse outcome.

SECTION 36. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) There is created within the Cabinet for Health Services a patient safety center. The purpose of the center is to maximize patient safety, reduce medical errors, and improve the quality of health care.

(2) The responsibilities of the center shall include but not be limited to:

  (a) Identifying available information that is useful for maximizing patient safety, reducing medical errors, and improving health care quality;

  (b) Collecting patient safety data from hospitals and ambulatory surgical centers, beginning no later than January 1, 2005;

  (c) Analyzing the root cause for each adverse medical event, medical error, or sentinel event reported to the center and providing evidence-based recommendations to the facility reporting the event;

  (d) *Analyzing the patient safety data to identify processes within the health care delivery system that contribute to medical errors and providing evidence-based recommendations for systematic changes that would reduce medical errors and improve patient safety statewide; and*

  (e) Disseminate, at least annually, a summary of the findings and recommendations to improve the health care delivery system to each hospital and ambulatory surgical center in this Commonwealth.

(3) The Cabinet for Health Services shall promulgate administrative regulations to carry out the responsibilities of this section which shall include, but not be limited to, establishing the methods for data collection and analysis, timelines for reporting, types of data to be reported, standardized format of data reporting, safeguards for maintaining confidentiality of patient safety data, and the format and content of aggregate reports.

(4) The Cabinet for Health Services may contract with one (1) or more private entities to undertake the duties delineated in this section.

(5) The Cabinet for Health Services shall submit to the Governor and the Legislative Research Commission an annual summary report of the aggregate data collected, conclusions, and any recommendations to reduce medical errors and improve patient safety.

SECTION 37. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) As a condition of licensure, every hospital and ambulatory surgical center shall report a medical error, adverse medical event, sentinel event, and related patient safety data to the patient safety center created in Section 36 of this Act. Patient

identifying information shall be removed prior to submitting the data to the center.

(2) Reports of an adverse medical event, medical error, sentinel event, or other patient safety data shall not abrogate any obligation to make reports to any licensure board or agency required by state law.

(3) Upon the request of the patient safety center created in Section 36 of this Act, any professional standards review entity associated with a hospital or ambulatory surgical center shall provide full disclosure of each adverse medical event, medical error, or sentinel event and all related documents to the center, including but not limited to the proceedings, records, opinions, conclusions, and recommendations.

(4) A person, hospital, or ambulatory surgical center reporting a medical error, adverse medical event, or sentinel event under this section shall not be held civilly or criminally liable for making the report to the center.

(5) An administrator, owner, supervisor, medical director, board, or any other person associated with hospital or ambulatory surgical center shall not take any retaliatory action against any person who in good faith makes a report of an adverse event, medical error, or sentinel event to the center.

(6) A report of an adverse event, medical error, or sentinel event, and other documents related to patient safety data, and documents or reports regarding any recommendations, findings, and conclusions of the center shall not be subject to Kentucky open records law and shall be considered privileged and confidential, except that summary reports or aggregate data and recommendations for health care delivery system changes shall be public information.

(7) The identity of the person reporting an adverse medical event, medical error, or sentinel event, and all patient safety data reported or collected under this section and any recommendations, finding, and conclusions of the center shall not be subject to subpoena, nor shall that information be disclosed or compelled to be produced in any civil, criminal, administrative, or other proceeding or be deemed admissible as evidence in any civil, criminal, administrative, or other tribunal, mediation, or court for any reason. No person involved in the collection, review, development, or submission of the patient safety data shall be subject to subpoena or compelled to testify regarding any data submitted to the center. Nothing in this section shall be construed to restrict or limit the right to discover or use in any civil, criminal, administrative, or other tribunal, mediation, or court proceeding any evidence, document, or record, which is subject to discovery independently of the reporting process mandated under this section.

Section 38. KRS 311.377 is amended to read as follows:

(1) Any person who applies for, or is granted staff privileges after June 17, 1978, by any health services organization subject to licensing under the certificate of need and licensure provisions of KRS Chapter 216B, shall be deemed to have waived as a condition of *the*[~~such~~] application or grant, any claim for damages for any good faith action taken by any person who is a member, participant in or employee of or who furnishes information, professional counsel, or services to any committee, board, commission, or other entity which is duly constituted by any licensed hospital, licensed hospice, licensed home health agency, health insurer, health maintenance organization, health services corporation, organized medical staff, medical society, or association affiliated with the American Medical Association, American Podiatry Association, American Dental Association, American Osteopathic Association, or the American Hospital Association, or a medical care foundation affiliated with[~~ such~~] a medical society or association, or governmental or quasigovernmental agency*, or any of its agents* when *the*[~~such~~] entity is performing the designated function of review of credentials or retrospective review and evaluation of the competency of professional acts or conduct of other health care personnel *or carrying out any of the requirements of Sections 35 to 37 of this Act*. This subsection shall have equal application to, and the waiver be effective for, those persons who, subsequent to June 17, 1978, continue to exercise staff privileges previously granted by any[~~ such~~] health services organization.

(2) [~~At all times in performing a designated professional review function, ~~]The proceedings, records, opinions, conclusions, and recommendations of any committee, board, commission, medical staff, professional standards review organization, or other entity, as referred to in subsection (1) of this section shall be confidential and privileged and shall not be subject to discovery, subpoena, or introduction into evidence, in any civil action *alleging any cause of action, including but not limited to any case alleging medical negligence, medical malpractice, or breech of contract,* in any court or in any administrative proceeding before any board, body, or committee, whether federal, state, county, or city, except as specifically provided with regard to the board in KRS 311.605(2). This subsection shall not apply to any proceedings or matters governed exclusively by federal law or federal regulation.

(3) Nothing in subsection (2) of this section shall be construed to restrict or limit the right to discover or use in any civil action or other administrative proceeding any evidence, document, or record which is subject to discovery independently of the proceedings of the entity to which subsection (1) of this section refers.

(4) No person who presents or offers evidence in proceedings described in subsection (2) of this section or who is a member of any entity before which *the*[~~such~~] evidence is presented or offered may refuse to testify in discovery or upon a trial of any civil action as to any evidence, document, or record described in subsection (3) of this section or as to any information within his own knowledge, except as provided in subsection (5) of this section.

(5) No person shall be permitted or compelled to testify concerning his testimony or the testimony of others except that of a defendant given in any proceeding referred to in subsection (2) of this section, or as to any of his opinions formed as a result of *the*[~~such~~] proceeding.

(6) In any action in which the denial, termination, or restriction of staff membership or privileges by any health care facility

shall be in issue, agents, employees, or other representatives of a health care entity may with the consent of *the*[~~such~~] health care entity testify concerning any evidence presented in proceedings related to the facility's denial of *the*[~~such~~] staff membership or privileges.

(7) Nothing in this section shall be construed to restrict or prevent the presentation of testimony, records, findings, recommendations, evaluations, opinions, or other actions of any entity described in subsection (1) of this section, in any statutory or administrative proceeding related to the functions or duties of *the*[~~such~~] entity.

(8) In addition to the foregoing, the immunity provisions of the federal Health Care Quality Improvement Act of 1986, P.L. 99-660, shall be effective arising under state laws as of July 15, 1988.

The Committee Substitute to **HB 450** is as follows:

HB 450, AN ACT relating to medical malpractice and making an appropriation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I.

INSURANCE FILINGS

Section 1. KRS 304.13-051 is amended to read as follows:

(1) *(a)* In a competitive market, every insurer shall file with the commissioner rates and supplementary information to be used in this state for *medical malpractice risks,* commercial risks as designated by the commissioner and for all personal risks. *Except as provided in paragraph (b) of this subsection,* the rates and supplementary rate information shall be filed not later than fifteen (15) days after the date of first use of the rates, unless the commissioner finds after a hearing that an insurer's rates require closer supervision because of the insurer's financial condition. On a finding, rates for both personal and commercial risks, supplementary rate information, and supporting information shall be filed with the commissioner at least thirty (30) days before the effective date of the rates. An order shall expire no later than one (1) year after it is issued.

(b) As to medical malpractice risks, every insurer, who for the entire ninety (90) day period prior to filing its medical malpractice insurance rates did not issue or renew medical malpractice insurance policies in Kentucky, shall file with the commissioner all rates for that market, supplementary rate information, and supporting information at least thirty (30) days before the proposed effective date of the rates. On application of the filer, the commissioner may authorize an earlier effective date.

(c) The commissioner may, if the commissioner determines that a hearing could aid the commissioner in determining whether to approve or disapprove the filing or when the commissioner deems it in the public interest, hold a public hearing on any medical malpractice insurance filing under this subsection within thirty (30) days after all rates and supplementary rate information have been filed. The commissioner may extend the thirty (30) day period by an additional thirty (30) day period.

(d) As to medical malpractice insurance, at the time of filing with the commissioner a proposed rate increase, the insurer shall notify each policyholder that the insurer has filed a proposed rate increase. The notice shall state the percentage by which the policyholder's current premium is anticipated to increase if the proposed rate increase is approved as filed.

(2) In a noncompetitive market, every insurer shall file with the commissioner all rates for that market, supplementary rate information, and supporting information at least thirty (30) days before the proposed effective date of the rates. On application of the filer, the commissioner may authorize an earlier effective date.

(3) Any rate filing in effect at the time the commissioner determines that competition does not exist pursuant to KRS 304.13-041 shall be deemed to be effective until disapproved pursuant to the procedures and rating standards of this chapter.

(4) Every insurer shall file with the commissioner all rating manuals and underwriting rules that it uses in this state not later than fifteen (15) days after they become effective. Manuals, rules, and guidelines must be adhered to until amended. The commissioner may exempt an insurer from filing supporting information if it files by reference, with or without deviation, to a filing which is in effect for another insurer or an advisory organization.

(5) (a) No insurer shall place into effect any rates, manuals, or underwriting rules which it proposes to use pursuant to subsection (1) or (4) of this section if the rates, manuals or underwriting rules will result in an increase or decrease of more than twenty-five percent (25%) from the insurer's then existing rates for any classification of risks in any of its rating territories within a twelve (12) month period of time.

(b) Any insurer which proposes to change its then existing rates, manuals, or underwriting rules so as to effectively increase or decrease the rates of any classification of risks within any rating territory more than twenty-five percent (25%) within a twelve (12) month period shall file all the rates and supplemental rating information which shall not become effective until approved by the commissioner.

(6) Rates and supplemental rating information for a residual market mechanism shall not become effective until approved by the commissioner.

(7) The commissioner shall review filings made in accordance with subsections (2), (5)(b) and (6) of this section as soon as reasonably possible after they have been made in order to determine whether they meet the applicable requirements of this chapter. Each filing shall be on file for a waiting period of thirty (30) days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed thirty (30) days if he gives written notice within the waiting period to the insurer which made the filing that additional time is needed for consideration of the filing. The commissioner may, when he deems it to be in the public interest, hold a public hearing on any filing before the filing becomes effective to determine whether the filing meets the requirements of this subtitle. In the event that a hearing is held under the provisions of this subsection, the waiting periods specified in this subsection shall not begin to run until thirty (30) days after the close of the hearing. The burden of establishing that the filing under consideration meets the requirements of this subtitle is on the insurer which makes the filing. A filing shall be deemed to meet the requirements of this subtitle unless disapproved by the commissioner within the waiting period or any extension thereof.

(8) At any hearing concerning an increase in worker's compensation rates conducted pursuant to subsection (7), the commissioner may approve a rate other than one that has been proposed by the filer if it is justified by the evidence presented at the hearing.

SECTION 2. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Every medical malpractice insurer shall, before the first of March, 2005, and before the first of March in each year thereafter, file with the commissioner a medical malpractice insurance premium and market statement for the preceding calendar year which shall report the following data in aggregate by rating territory and by specialty in a format approved by the department:

(1) The annual premium resulting from manual rates for new and renewal policies with effective dates in the time period;

(2) The annual premium actually charged for these policies;

(3) The number of new policies;

(4) The number of renewal policies;

(5) The number of canceled policies;

(6) The number of non-renewed policies;

(7) The average adjustment in premium written due to experience rating;

(8) The average adjustment in premium written due to schedule rating; and

(9) The average adjustment in premium written due to any other discretionary rating factors.

PART II.

KENTUCKY HEALTH CARE PROVIDERS' MUTUAL INSURANCE AUTHORITY

SECTION 3. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds and declares:

  (a) An adequate and available medical malpractice insurance market does not exist for all licensed health care providers in the Commonwealth;

  (b) Medical malpractice insurance premiums have risen rapidly since 2000 after a decade of relatively flat prices;

  (c) A lack of an adequate market for medical malpractice insurance threatens the economic welfare of the Commonwealth;

  (d) It is in the interest of all Kentuckians that health care providers have the protection and availability of affordable medical malpractice insurance to practice medicine and that a means be provided to indemnify citizens of the Commonwealth who suffer injury and damages arising out of medical negligence;

  (e) The General Assembly has a responsibility to ensure health care providers an available and adequate insurance mechanism through which health care providers may practice medicine in the Commonwealth and to ensure citizens that an adequate number of health care providers will be available to meet their health care needs across the Commonwealth; and

  (f) Other states have created insurance entities to make medical malpractice insurance available to their health care providers in response to the need to ensure the availability of affordable medical malpractice insurance.

(2) Therefore, it is the intent of the General Assembly in creating the Kentucky Health Care Providers' Mutual Insurance Authority to establish a self-supporting competitive state fund for the purpose of providing both a market of last resort for health care providers in the Commonwealth and another competitive source of insurance in the market through which health care providers may secure and maintain their medical malpractice coverage.

SECTION 4. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Health Care Providers' Mutual Insurance Authority is created as a nonprofit, independent, self-supporting de jure municipal corporation and political subdivision of the Commonwealth which shall be a public body corporate and politic to insure health care providers in the Commonwealth for medical malpractice. The General Assembly hereby recognizes that the operation of a competitive state fund is a unique activity for state government and that a corporate structure will best enable the authority to be managed in an entrepreneurial and business-like manner.

The authority shall function in a manner similar to a governing board for a domestic mutual insurance company and shall be subject to the provisions of this chapter applicable to domestic mutual insurance companies, unless otherwise provided or exempted in Sections 3 to 23 of this Act.

(2) Except for initial funding for start-up, the authority shall be entirely self-supporting.

(3) The authority or its liabilities shall not be deemed to constitute a debt or a liability of the Commonwealth or a pledge of the faith and credit of the Commonwealth.

(4) The authority shall provide coverage and issue policies as an insurer in the voluntary market and as an insurer of last resort.

SECTION 5. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 3 to 23 of this Act, unless the context otherwise requires:

(1) "Authority" means the Kentucky Health Care Providers' Mutual Insurance Authority.

(2) "Board" means the board of directors of the authority.

(3) "Insurer of last resort" means an entity that provides medical malpractice coverage to any and all health care providers who comply with the provisions of Sections 3 to 23 of this Act for their business in and incidental to the Commonwealth.

(4) "Manager" means the manager of the authority.

(5) "Policyholder" means a health care provider in the Commonwealth who has secured medical malpractice coverage under this authority.

(6) "Provider" or "health care provider" means:

  (a) Any facility or service required to be licensed pursuant to KRS Chapter 216B;

  (b) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

  (c) Nurses and advanced registered nurse practitioners licensed under KRS Chapter 314;

  (d) Pharmacists as defined pursuant to KRS Chapter 315;

  (e) Chiropractors licensed under KRS Chapter 312;

  (f) Dentists licensed under KRS Chapter 313;

  (g) Optometrists licensed under KRS Chapter 320;

  (h) Physician assistants regulated under KRS Chapter 311;

  (i) Psychologists licensed under KRS Chapter 319;

  (j) Physical therapists licensed under KRS Chapter 327;

  (k) Occupational therapists licensed under KRS Chapter 319A; and

  (l) Any corporation, partnership, or sole proprietorship that directly provides medical services to its employees.

SECTION 6. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall be governed by a board of directors. The board shall exercise complete jurisdiction over the authority.

(2) The board shall consist of the:

  (a) Secretary of the Finance and Administration Cabinet;

  (b) Secretary of the Personnel Cabinet;

  (c) Secretary of the Public Protection and Regulation Cabinet; and

  (d) Ten (10) at-large members appointed by the Governor, subject to confirmation by the Senate. At least two (2) of the members shall be health care providers who hold valid and effective licenses as health care providers issued by the State Board of Medical Licensure under KRS Chapter 311.

(3) Any vacancy which occurs prior to the expiration of a term shall be filled by the Governor in the same manner as the initial appointment was made, and the new appointee shall serve only the remainder of the unexpired term.

(4) No person shall serve on the board who:

  (a) Fails to meet or comply with the conflict of interest policies established by the board and KRS 304.24-270;

  (b) Is not bondable;

  (c) Is an employee, attorney, or contractor of a competing insurer providing medical malpractice insurance in the Commonwealth; or

  (d) Is not a resident of this Commonwealth.

(5) In making the appointments to the board, subject to Senate confirmation, the Governor shall ensure adequate representation from licensed health care providers and the major sectors of the economy and workforce in the Commonwealth.

SECTION 7. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The board shall elect a chair and other officers it deems necessary from its members. The Governor shall make the initial appointments to the board by August 1, 2004, as follows: three (3) members shall be appointed to terms that expire December 31, 2005, and four (4) members shall be appointed to terms that expire December 31, 2007. Subsequent members shall serve terms of four (4) years and shall serve until their successors are appointed and qualified.

(2) Senate confirmation of the Governor's appointees is required in accordance with the provisions of KRS 11.160. If a member is not confirmed by the Senate, the Governor, within thirty (30) days of the rejection, shall make another appointment. That member shall serve the remainder of the term in question and shall also be subject to confirmation should the term extend until the next regular session, or a special session which includes this subject on the call, whichever occurs earlier.

(3) Seven (7) members shall constitute a quorum. The board shall meet at least quarterly and at such other times as the chair may determine. The board shall also meet upon the call of five (5) or more of the members of the board.

(4) Each member, except the secretaries of the cabinets, shall be compensated twelve thousand dollars ($12,000) annually. In addition, the members of the board, except the secretaries of the cabinets, shall be reimbursed for necessary travel and lodging expenses in accordance with administrative regulations promulgated by the Cabinet for Finance and Administration for state employees.

(5) A board member, except the secretaries of the cabinets, may be removed for cause by the board. Cause shall include, but not be limited to, incompetence or misconduct defined in policies or bylaws adopted by the board.

SECTION 8. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The board of directors of the authority shall function in a manner similar to the governing body of a mutual insurance company established pursuant to this chapter, with all of the general corporate powers incidental thereto. The powers and duties of the board shall include, but not be limited to, the power to:

(1) Sue;

(2) Hire a manager to administer the authority in accordance with the policies and procedures of the board;

(3) Hire an internal auditor who shall serve at the pleasure of and report directly to the board on the internal operations of the authority;

(4) Adopt a corporate seal;

(5) Develop and file with the Legislative Research Commission bylaws for the operation of the authority;

(6) Examine and adopt an annual operating budget for the authority;

(7) Serve as investment trustees and fiduciaries of the authority in accordance with the provisions of KRS Chapter 386;

(8) Incur debt in its own name and enter into financing agreements with the Commonwealth, its own agencies, or with a commercial bank;

(9) Develop policy for the operation of the authority consistent with its mission and fiduciary responsibility;

(10) Adopt a procurement policy consistent with the provisions of KRS Chapter 45A, including competitive bidding procedures;

(11) Develop and publish an annual report to policyholders, the Governor, the General Assembly, and interested parties that describes the financial condition of the authority, including a statement of expenses, income, and actuarial soundness;

(12) Pursuant to this chapter, determine and establish an actuarially-sound price for insurance offered by the authority, including any dividends or deviations;

(13) Pursuant to Section 14 of this Act, assess policyholders;

(14) Employ a qualified firm to conduct an internal review and management or performance audit of the internal operations of the authority as needed or determined by the board, Attorney General, or Auditor of Public Accounts;

(15) Approve all contracts entered into by the authority, in accordance with the bylaws and procurement policy of the board;

(16) Conduct annually an independent audit of the financial condition of the authority; and

(17) Perform all other acts necessary or convenient in the exercise of any power, authority, or jurisdiction over the authority, either in the administration or in connection with the business of the authority to fulfill the purpose of Sections 3 to 23 of this Act.

SECTION 9. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Following a nationwide search, the board shall hire a manager, subject to Senate confirmation in accordance with KRS 11.160, who shall serve at the pleasure of the board. The manager shall be compensated at a level determined by the board.

(2) The manager shall have proven successful experience for a period of at least five (5) years as an executive at the general management level in insurance operations or in the management of a state fund for medical malpractice.

(3) The manager shall conduct the day-to-day operations of the authority for the purpose of carrying out the policies and procedures of the board. The duties of the manager include but are not limited to:

(a) Administering all operations of the authority in accordance with the direction of the board;

(b) Recommending to the board an annual administrative budget covering the operations of the authority and, upon approval, submitting the administrative budget, financial status, and actuarial condition of the authority to the Governor and the General Assembly for their examination;

(c) Directing and controlling all expenditures of the approved budget;

(d) From time to time, upon the recommendation of an actuary, recommending to the board actuarially-sound rating plans, and the amount of dividends, if any, to be returned to policyholders;

(e) Investing the assets of the authority under the guidance of the board and in accordance with the provisions of Subtitle 7 of this chapter;

(f) Recommending to the board and administering a system of personnel administration;

(g) Preparing and administering fiscal, payroll, accounting, data processing, and procurement procedures for the operation of the authority;

(h) Recommending to the board bylaws and uniform procedures for the management of the authority;

(i) Within the limitations of the budget, employing necessary staff personnel in accordance with the personnel policies of the board;

(j) Maintaining appropriate levels of property, casualty, and liability insurance as approved by the board to protect directors, officers, employees, and assets of the authority; and

(k) Contracting for claims administration, legal defense, actuaries, financial services, and other services which the manager elects to obtain outside employed staff.

(4) The manager may:

(a) Reinsure any risk or part of any risk;

(b) Establish procedures for adjusting claims in accordance with this chapter; and

(c) Require policyholders to maintain an adequate deposit to provide security for periods of coverage for which premiums have not been paid.

(5) The manager shall give an official bond in an amount and with sureties approved by the board. The premium for the bond shall be paid by the authority.

(6) The provisions of KRS Chapters 18A and 64 shall not apply to the board, the manager, or the staff of the authority; however, the board shall adopt a system of personnel administration that includes benefits, grievance procedures, training and compensation.

SECTION 10. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The authority may provide coverage for medical malpractice insurance to any health care provider who tenders the required premium for coverage and who complies with other conditions and qualifications for obtaining and maintaining coverage adopted by the authority to protect and ensure its actuarial soundness and solvency.

(2) The authority shall provide coverage to any health care provider who is unable to secure coverage in the voluntary market unless the health care provider owes undisputed premiums to a previous medical malpractice carrier or to a medical malpractice residual market mechanism.

SECTION 11. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The authority, through its board and manager, shall establish separate rating plans, rates, and underwriting standards for different classes of risks for the authority.

(2) The rating plans, rates, and underwriting standards developed for the categories of risk shall be based on generally-accepted actuarial practices and procedures as set forth in the Statement of Principles Regarding Property and Casualty Ratemaking of the Casualty Actuarial Society, in accordance with the actuarial standards of practice and compliance guidelines of the Actuarial Standards Board. In developing rates, due consideration shall be given to risk management practices. The rates shall be actuarially sound for both the voluntary market and the market of last resort and set at levels which are expected, in the aggregate, to be sufficient to pay all medical malpractice claims incurred by the participating health care provider risks and other permitted expenses of the authority.

(3) Multitiered premium or rating plans may be developed to provide medical malpractice coverage to insureds in the Commonwealth.

(4) The manager shall develop statistical and other information as necessary to distinguish its writings in the voluntary market, and its writings as a market of last resort.

(5) The rates established by the authority for its policyholders shall be based only on Kentucky loss experience data, unless

the state data are not credible.

(6) Any and all rates, whether for the voluntary market or the market of last resort, established by the board are deemed competitive and shall be filed with the insurance commissioner in accordance with this chapter in the same manner as any other mutual insurance company writing medical malpractice coverage in the Commonwealth.

(7) Notwithstanding any provision of this chapter to the contrary, the surplus requirements for mutual insurance companies in the Commonwealth shall not apply to the authority until the authority has been in operation for eighty-four (84) months, unless modified by the General Assembly. In addition to other reporting requirements in Sections 3 to 23 of this Act, the authority shall report to the Interim Joint Committee on Banking and Insurance of the General Assembly, no later than October 31 of each year, on the status of its efforts to build and maintain a surplus as required by this chapter.

SECTION 12. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

On an annual basis, the board may declare a dividend in accordance with Subtitle 24 of this chapter, and distribute the same in the form of premium discounts, dividends, or a combination of dividends and discounts, at its discretion, if:

(1) Any funding obtained pursuant to subsection (2) of Section 17 of this Act has been repaid in full;

(2) An independent actuarial report of the prior year's operations has been completed and reviewed by the board;

(3) The authority has met all expenses for administration and claims for the prior year; and

(4) Adequate reserves exist to pay all claims.

SECTION 13. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

On a quarterly basis, the manager shall prepare a report of assets and liabilities, which shall also include a statement of condition regarding the solvency of the authority, when awarded claims to date and estimated initial claims not reported are taken into account. This report shall be a public record and shall be provided to the board, the Governor, and the Legislative Research Commission.

SECTION 14. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) In determining the solvency of the authority in regard to maintaining adequate reserves, the commissioner of insurance, the independent accountant engaged for the annual audit, and the board, in exercising its prudent stewardship, shall not utilize the practice of "discounting" the funds to reduce future liabilities, except in conformity with standards or rules promulgated by the National Association of Insurance Commissioners.

(2) The authority shall file reports required by KRS 304.3-240.

(3) The authority shall file a report not later than March 31 of each year indicating the business done by the authority during the previous year, including a balance sheet showing assets and liabilities at the beginning and conclusion of that year. The report shall be a public record and shall be delivered to the Governor, commissioner of insurance, Auditor of Public Accounts, Attorney General, and the co-chairs of the Legislative Research Commission. Additionally, a statement of solvency shall be prepared which shall include, at a minimum:

  (a) A summary of the prior quarterly reports required in Section 13 of this Act;

  (b) A management projection of the future solvency status for the authority; and

  (c) Any recommendations pertaining to paragraphs (a) and (b) of this subsection.

(4) The authority shall not enter into any contract with a certified public accountant for an audit unless the Auditor of Public Accounts has declined in writing to perform the audit or has failed to respond within thirty (30) days of receipt of a written request for an audit. Any contract with a certified public accountant entered into as a result of the Auditor of Public Accounts declining to perform the audit shall specify the following:

  (a) That the certified public accountant shall forward a copy of the audit report and management letters to the Auditor of Public Accounts, Attorney General, and Legislative Research Commission; and

  (b) That the Auditor of Public Accounts shall have the right to review the certified public accountant's work papers.

(5) If at any time the assets of the authority are less than its liabilities, the board may levy an assessment on its policyholders in the manner provided in Subtitle 24 of this chapter.

SECTION 15. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The board shall formulate and adopt an investment policy that safeguards the value of all assets and maximizes investment potential commensurate with risk and liquidity restrictions, and supervise the investment activities of the authority subject to the limitations on domestic insurance companies under this chapter. Notwithstanding any provisions of the KRS to the contrary, the authority may utilize the investment expertise and advice of the Office of Financial Management in the Finance and Administration Cabinet. The authority shall also retain an independent investment counsel or managers who shall be subject to standards applicable to fiduciaries responsible for safeguarding assets of a corporation.

SECTION 16. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The manager shall compile and maintain statistical and actuarial data related to the determination of proper premium rate levels, the incidence of acts of medical malpractice, costs related to those acts, including medical and indemnity, and other data necessary for the development of fair and equitable rates and rating plans.

SECTION 17. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall not receive any direct state general fund appropriation.

(2) Initial funding for the Kentucky Medical Mutual Insurance Authority shall be determined by the Governor and the secretary of the Finance and Administration Cabinet. Funding methods may include, but not be limited to, a loan from an existing state agency or agencies to the authority. The maximum amount borrowed from all state agencies shall not exceed seven million dollars ($7,000,000), to be repaid over a period not to exceed ten (10) years from the original loan date. The Governor shall have the authority to provide or secure additional funding necessary to maintain, for the first thirty-six (36) months of its operation, the surplus the Governor deems proper. The additional funding may come from any funds which may be expended directly by the Governor or from nonstate-agency sources and, regardless of source, shall be a loan to the authority. The rate of interest to be applied to the loan shall be one percent (1%) higher than the average for the long-term investment folder of the lending agency on the anniversary date of the original loan. The interest rate shall be adjusted annually on the anniversary date of the original loan. To minimize cash requirements and interest obligations, the loan shall be executed as a line of credit against the lending agency, so that only those funds actually required for initial start-up operations, including the establishment of a surplus and reinsurance expenses, are drawn down on an "as needed" basis.

(3) Any executive branch agency of the Commonwealth and any public corporation created by the Commonwealth, any statute to the contrary notwithstanding, may lend money to the authority subject to the terms and conditions of this section, and any loan made pursuant to this section shall not be construed as a breach or violation of fiduciary duties contained in KRS Chapter 386.

(4) Funding methods for the creation, continued development, and operation of the authority may also include issuance of revenue bonds from time to time, in a principal amount outstanding not to exceed forty million dollars ($40,000,000) at any given time, payable solely from premiums received from insurance policies and other revenues generated by the authority, subject to the following provisions:

  (a) The authority may issue bonds to refund other bonds issued pursuant to this section;

  (b) The bonds shall have a maturity of no more than ten (10) years from the date of issuance. The authority shall determine all other terms, covenants, and conditions of the bonds, except no bonds may be redeemed prior to maturity unless the authority has established adequate reserves for the risks it has insured;

  (c) The bonds shall be executed with the manual or facsimile signature of the manager of the chair of the board and attested by another member of the board. The bonds may bear the seal, if any, of the authority;

  (d) The proceeds of the bonds and the earnings on those proceeds shall be used by the authority for the development and operation of the authority, to pay expenses incurred in the preparation, issuance, and sale of the bonds, and to pay any obligations relating to the bonds and the proceeds of the bonds under the United States Internal Revenue Code;

  (e) The bonds may be sold at a public sale or a private sale. If the bonds are sold at a public sale, the notice of sale and other procedures for the sale shall be determined by the authority or its designated representative.

  (f) This section is full authority for the issuance and sale of bonds and the bonds shall not be invalid for any irregularity or defect in the proceedings for their issuance and sale and shall be incontestable in the hands of bona fide purchasers or holders of the bonds for value;

  (g) Approval by the secretary of the Finance and Administration Cabinet shall be required for any issuance of bonds under this section.

(5) Funds collected by the authority shall not:

  (a) Be loaned to the Commonwealth or any instrumentality or agency thereof;

  (b) Be subject to transfer to the Commonwealth or any agency or instrumentality thereof, except for repayment of the loan authorized in subsections (2) and (3) of this section; or

  (c) Be expended for any other purposes than as authorized by Sections 3 to 23 of this Act and KRS 304.13-340.

SECTION 18. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For marketing and sales purposes, the authority shall utilize only agents duly and legally licensed and in good standing in accordance with the provisions of this chapter to sell coverage provided by the authority.

(2) Commissions paid for marketing or sales by an insurance agent shall be determined by the manager, subject to the approval of the board.

SECTION 19. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No member of the board, the manager, or any employee of the authority shall be held personally liable for any act performed or for any contract or other obligation entered into or undertaken in an official capacity, in connection with the administration, management, or conduct of the authority, its funds and other assets, its business, or other related affairs.

SECTION 20. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The board, manager, and employees shall comply with the code of ethics applicable to the Executive Branch pursuant to KRS Chapter 11A.

(2) In addition to compliance with the code of ethics required in subsection (1) of this section, no member of the board shall have any direct or indirect interest in any undertaking that puts the member's personal interest in conflict with that of the authority. A personal interest shall include, but not be limited to, an interest in a major procurement.

SECTION 21. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provision of this chapter to the contrary, the authority shall be exempt from participation, and shall not join, contribute financially to, nor be entitled to the protection of, any plan, pool, association, guarantee, or insolvency fund authorized or required by this chapter.

(2) Except as provided in subsection (1) of this section, the authority shall be subject to the same assessments applicable to medical malpractice premiums as domestic mutual insurance companies licensed to do business in the Commonwealth and governed by the provisions of Subtitle 24 of this chapter.

(3) Notwithstanding the provisions of Subtitle 24 of this chapter or any other provisions of the KRS to the contrary, the minimum number of directors and procedures required for incorporating a mutual insurance company, requirements relating to the name of a mutual insurance company, and any licensing requirements applicable to mutual insurance companies shall not apply to the authority.

(4) Notwithstanding any provision of this chapter to the contrary the authority shall not be subject to the provisions of Subtitle 33 or other provisions of KRS Chapter 304 that relate to the liquidation, rehabilitation, dissolution, or sale of any insurance company.

SECTION 22. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The board shall comply with KRS Chapter 61 in regard to open meetings and open records in the conduct of ordinary business. In addition to the exemptions listed in KRS Chapter 61, proceedings to discuss rates, proposed rates, or anything that relates to rates if that discussion would jeopardize the competitiveness of the authority may be closed, as well as, proceedings which would provide an unfair competitive advantage to private sector competitors providing medical malpractice coverage in the Commonwealth.

(2) All records of the authority shall be deemed open records and subject to public inspection, unless:

(a) The record is excluded from inspection under KRS Chapter 61;

(b) The record includes information that would provide an unfair competitive advantage to private sector competitors providing medical malpractice coverage in the Commonwealth;

(c) In addition to the exemption provided by KRS 61.878(1)(c)1., the record is generated by the authority, generally recognized as confidential or proprietary, and which if openly disclosed would permit an unfair commercial advantage to competitors of the authority or other entity to which the record relates; and

(d) The record relates to a fraud investigation conducted by the authority and that does not become evidence in a criminal or civil action.

SECTION 23. A NEW SECTION OF SUBTITLE 40 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The Attorney General and the Auditor of Public Accounts shall monitor the operations of the authority.

(2) Either the Attorney General or the Auditor of Public Accounts, or both, may make at any time any examinations or investigations, jointly or severally, of the operations, practices, management, or other matters relating to the authority as they deem necessary. Either of them shall have the power to subpoena witnesses and records for these purposes, and otherwise to compel the giving of evidence for any matter under study. The Attorney General, the Auditor of Public Accounts, or any employee authorized by either of them may require the giving of this evidence under oath and may administer the oath. Any person voluntarily providing information or evidence may be required to do so under oath administered by the Attorney General, the Auditor of Public Accounts, or any employee authorized by either of them. If any person fails or refuses to testify or furnish documentary evidence concerning any matter requested, the Franklin Circuit Court, on application of either the Attorney General or the Auditor of Public Accounts or both, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the Circuit Court or of a refusal to testify in the Circuit Court.

(3) The Attorney General and the Auditor of Public Accounts shall have without restriction:

(a) Full access to all records of the authority, except that confidential medical records of employees of insureds are available only by subpoena;

(b) Full access to all financial transactions and investigations of the authority; and

(c) The right to attend all meetings of the board and its committees.

(4) If fraud, mismanagement, illegal activity, imprudent practices, or other deficiencies are found in the operations or other practices of the authority, the Attorney General or Auditor of Public Accounts, or both shall:

(a) Recommend internal corrective action;

(b) Institute a civil action or action for injunctive relief to compel corrective action;

(c) Institute criminal proceedings against any officer or employee of the authority or any other person, as defined in KRS 446.010, as may be necessary; or

(d) Any combination of the above listed actions or any other form of action reasonably calculated to assure efficient and honest operations of the authority and those involved with it.

(5) The Attorney General and the Auditor of Public Accounts shall report jointly to the General Assembly in January of each year in which the General Assembly convenes in an even-numbered-year regular session the results of the monitoring activities required by this section.

PART III.

MEDICAL MALPRACTICE SCREENING PANEL

SECTION 24. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

As used in Sections 24 to 32 of this Act, unless the context requires otherwise:

(1) "Malpractice" means a tort or breach of contract based on health care provider services that were provided, or that should have been provided, by a health care provider to a patient;

(2) "Patient" means an individual who receives or should have received health care from a health care provider, under a contract, express or implied, and includes a person having a claim of any kind, whether derivative or otherwise, as a result of alleged malpractice on the part of a health care provider. Derivative claims include the claim of a parent or parents, guardian, trustee, child, relative, attorney, or any other representative of the patient including claims for loss of services, loss of consortium, expenses, and other similar claims; and

(3) "Health care provider" means:

(a) Any facility or service required to be licensed pursuant to KRS Chapter 216B;

(b) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

(c) Nurses and advanced registered nurse practitioners licensed under KRS Chapter 314;

(d) Pharmacists licensed under KRS Chapter 315;

(e) Chiropractors licensed under KRS Chapter 312;

(f) Dentists licensed under KRS Chapter 313;

(g) Optometrists licensed under KRS Chapter 320;

(h) Physician assistants regulated under KRS Chapter 311;

(i) Psychologists licensed under KRS Chapter 319;

(j) Physical therapists licensed under KRS Chapter 327;

(k) Occupational therapists licensed under KRS Chapter 319A; and

(l) Any corporation, partnership, or sole proprietorship that directly provides medical services to its employees.

SECTION 25. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) If a complaint is filed in a Circuit Court of this state claiming damages for personal injury or death on account of alleged medical malpractice of a health care provider and one (1) of the parties to the action requests, by filing a memorandum with the court, that a medical malpractice screening panel be convened, the judge of the Circuit Court or, if the Circuit Court has more than one (1) division, the chief judge of the court shall convene a medical malpractice screening panel, hereafter referred to as the "screening panel." If a complaint is filed in a Circuit Court of this state claiming damages for personal injury or death on account of alleged medical malpractice of a health care provider and none of the parties to the action requests that a screening panel be convened, the judge may convene a screening panel upon the judge's own motion. If a claim for damages for personal injury or death on account of alleged medical malpractice of a health care provider has not been formalized by the filing of a complaint, any party affected by such claim may request, by filing a memorandum with the court, that a screening panel be convened, and if such request is made the judge of the Circuit Court or, if the Circuit Court has more than one (1) division, the chief judge of the court shall convene a screening panel.

(2) (a) The membership of the screening panel shall be selected as follows:

1. A health care provider designated by the defendant or by the person against whom the claim is made if no complaint has been filed;

2. A health care provider designated by the plaintiff or by the claimant if no complaint has been filed;

3. A health care provider selected jointly by the plaintiff and the defendant or by the claimant and the person against whom the claim is made if no complaint has been filed; and

4. An attorney selected by the judge of the Circuit Court or, if the Circuit Court has more than one (1) division, the chief judge of such court from a list of attorneys maintained by the judge of the Circuit Court or, if the Circuit Court has more than one (1) division, the chief judge of the court for such purpose. Such attorney shall be a nonvoting member of the screening panel but shall act as chair of the screening panel.

(b) If there are multiple plaintiffs or defendants, only one (1) health care provider shall be selected per side. The plaintiff, whether single or multiple, has the right to select one (1) health care provider and the defendant, whether single or multiple, has the right to select one (1) health care provider. If the professions of the codefendants differ or they specialize in two (2) or more areas, the panel selected shall include a representative from each of the professions or specialties of the codefendants. If necessary to obtain required representation, the panel may be expanded to five (5) members, with each side selecting two (2) members and those selecting the fifth member.

(c) If there is only one (1) party defendant who is an individual, two (2) of the panelists selected shall be members of the profession of which the defendant is a member. If the individual defendant is a health care provider who specializes in a limited area, two (2) of the panelists selected must be health care providers who specialize in the same area as the defendant.

(3) The state agency which licenses, registers, certifies, or otherwise is responsible for the practice of any group of health care providers shall maintain and make available to the parties to the proceeding a current list of health care providers who are willing and available to serve on the screening panel. All health care providers who regularly practice or teach in Kentucky, whether in the teaching profession or otherwise, who hold a license to practice in their profession shall be available for selection as members of the screening panel. The persons appointed shall constitute the screening panel for the particular medical malpractice claim to be heard.

SECTION 26. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

The Circuit judge or, if the Circuit Court has more than one (1) division, the chief judge of the court shall notify the parties to the action that a screening panel has been convened and that the members of such screening panel are to be appointed within ten (10) days of the receipt of such notice. If the plaintiff and the defendant or, if no complaint has been filed, the claimant and the party against whom the claim is made are unable to jointly select a health care provider within ten (10) days after receipt of notice that a screening panel has been convened, the judge of the Circuit Court or, if the Circuit Court has more than one (1) division, the chief judge of such court shall select the health care provider.

SECTION 27. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

The screening panel shall convene with notice in writing to all parties and their counsel and shall decide, after consideration of medical records and medical care facility records, contentions of the parties, examination of x-rays, test results, and treatises, whether there was a departure from the standard practice of the health care provider specialty involved and whether a causal relationship existed between the damages suffered by the claimant and any such departure. The Kentucky Rules of Civil Procedure shall apply to notice and the general conduct of the administrative proceedings. The chair shall make all procedural rulings and those rulings are final. The Kentucky Rules of Evidence do not apply. All meetings of the screening panel shall be held in camera.

SECTION 28. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) Within ninety (90) days after the screening panel is commenced, the panel shall make written recommendations on the issue of whether the health care provider departed from the standard of care in a way which caused the plaintiff or claimant damage. A concurring or dissenting member of the screening panel may file a written concurring or dissenting opinion. All written opinions shall be supported by corroborating references to published literature and other relevant documents.

(2) The screening panel shall notify all parties when its determination is to be handed down, and, within seven (7) days of its decision, shall provide a copy of its opinion and any concurring or dissenting opinion to each party and each attorney of record and to the judge of the Circuit Court or, if the Circuit Court has more than one (1) division, the chief judge of the court.

(3) The written report of the screening panel shall be admissible in any subsequent legal proceeding, and either party may subpoena any and all members of the panel as witnesses for examination relating to the issues at trial.

SECTION 29. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

If one (1) or more of the parties rejects the final determination of the screening panel, the plaintiff may proceed with the action in the Circuit Court.

SECTION 30. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

No member of the screening panel shall be subject to a civil action for damages as a result of any action taken or recommendation made by the member acting without malice and in good faith within the scope of the member's official capacity as a member of the screening panel.

SECTION 31. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) Each health care provider member of the screening panel shall be paid a total of five hundred dollars ($500) for all work performed as a member of the panel exclusive of time involved if called as a witness to testify in court, and in addition thereto, reasonable travel expenses. The chair of the panel shall be paid a total of one thousand dollars ($1000) for all work performed as a member of the panel exclusive of time involved if called as a witness to testify in court, and in addition thereto, reasonable travel expenses. The chair shall keep an accurate record of the time and expenses of all the members of the panel, and the record shall be submitted to the parties for payment with the panel's report.

(2) Each side shall pay one-half (1/2) of the costs of the panel, including travel expenses and other expenses of the review.

SECTION 32. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

In those cases before a screening panel which have not been formalized by filing a complaint in a court of law, the filing of a memorandum requesting the convening of a screening panel shall toll any applicable statute of limitations, and the statute of limitations shall remain tolled until thirty (30) days after the screening panel has issued its written recommendations.

PART IV.

MEDIATION

SECTION 33. A NEW SECTION OF KRS CHAPTER 454 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "health care provider" means:

(a) Any facility or service required to be licensed pursuant to KRS Chapter 216B;

(b) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

(c) Nurses and advanced registered nurse practitioners licensed under KRS Chapter 314;

(d) Pharmacists licensed under KRS Chapter 315;

(e) Chiropractors licensed under KRS Chapter 312;

(f) Dentists licensed under KRS Chapter 313;

(g) Optometrists licensed under KRS Chapter 320;

(h) Physician assistants regulated under KRS Chapter 311;

(i) Psychologists licensed under KRS Chapter 319;

(j) Physical therapists licensed under KRS Chapter 327;

(k) Occupational therapists licensed under KRS Chapter 319A; and

(l) Any corporation, partnership, or sole proprietorship that directly provides medical services to its employees.

(2) All lawsuits involving claims of professional negligence against health care providers shall be subject to mediation, to fully explore possibilities for a prompt and fair voluntary settlement of claims.

(3) The mediation shall take place within one hundred eighty (180) days after all responsive pleadings are filed in the lawsuit, unless the parties obtain a court order extending the time. If a medical malpractice screening panel is requested and formed pursuant to Sections 24 to 32 of this Act, the mediation shall take place within ninety (90) days after the panel submits its report to the circuit clerk and all attorneys and parties pursuant to subsection (4) of Section 30 of this Act.

(4) Parties may consent to a postponement of up to sixty (60) days.

(5) Parties may opt out of mediation only by obtaining a court order exempting them.

(6) Parties may mutually agree to select a mediator of their choice or, if they cannot agree within twenty (20) days after all responsive pleadings are filed in the lawsuit, a mediator shall be appointed by the court in which the action is pending.

(7) At least seven (7) days before the mediation, parties shall provide the mediator with a statement of issues, which identifies the issues in dispute and the parties' positions and interests. The pleadings and any documents of importance to the case shall be included.

(8) If any party fails to submit a statement of issues or to attend within the first thirty (30) minutes of the mediation session, the mediator may cancel the mediation and file with the court a certificate of noncompliance. The party responsible for the cancellation will be required to pay any cancellation fees charged by the mediator and may be subject to sanctions imposed by the court.

(9) The mediation may be held anywhere that is acceptable to the parties, such as the mediator's office, the office of any party or lawyer, or at the court facilities.

(10) All parties and, if they are represented, their lawyers and, if they are insured, a representative of their insurer shall attend the mediation. A lawyer may not attend in the place of a party. Those present shall have authority to settle the

case for an amount deemed appropriate by the party or parties they represent and the parties shall extend authority to settle to their insurers, if any, where consent to settle is required by the policy of insurance. If a corporation, partnership, or other organization is a claimant or a defendant, it shall be represented by an individual who is authorized to make a decision on its behalf.

(11) Agreements resolving some or all of the issues in dispute shall be in writing and signed by the parties or their lawyers. If the parties settle the case, the parties shall file a notice with the court advising of the settlement with ten (10) days of the agreement being signed. Agreements reached at mediation are legally binding. If a party fails to comply with a signed agreement, any other party to the agreement may bring a motion for judgment under the terms of the agreement or continue the legal proceedings as if there had been no agreement.

(12) After the session, the mediator shall complete and file a report on the outcome of the mediation with the court in which the action is pending.

(13) The mediator's fee shall be paid equally by the parties.

PART V.

PATIENT SAFETY

SECTION 34. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

For purposes of Sections 34 to 38 of this Act:

(1) "Hospital performance measures" means the clinical measurements and data requirements as adopted by the Centers for Medicare and Medicaid Services for submission under the National Voluntary Hospital Reporting Initiative;

(2) "Nonidentifiable report" means data which does not identify a specific patient, health care provider, or health care facility;

(3) "Patient safety data" means internal reports of unanticipated adverse events, and sentinel events and hospital performance measures required to be reported under Section 36 of this Act;

(4) "Sentinel event" means an unexpected occurrence involving death or serious physical or psychological injury or the risk thereof, including but not limited to any process variation for which a recurrence would carry a significant chance of a serious adverse outcome; and

(5) "Unanticipated adverse event" means an adverse event or outcome that occurs within a health care facility as a result of a poorly designed system, a system failure, or an error.

SECTION 35. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) There is created within the Department for Public Health or the Cabinet for Health Services a Patient Safety Center. The purpose of the center is to maximize patient safety and improve the quality of health care.

(2) The responsibilities of the center shall include:

(a) Identifying available information that is useful for maximizing patient safety and improving health care quality;

(b) Collecting sentinel event reports from hospitals and ambulatory surgical centers pursuant to Section 36 of this Act beginning no later than January 1, 2005;

(c) Analyzing the root cause for each sentinel event directly reported to the center and providing evidence-based recommendations to the facility reporting the event; and

(d) Seeking federal or state grants or private funding sources to assist hospitals in the acquisition of technology which would reduce adverse events and improve patient safety.

(3) The Cabinet for Health Services may promulgate administrative regulations as may be necessary to carry out the responsibilities of this section. The regulations shall address timeframes for reporting, assurances that the content of reports are in compliance with the Health Insurance Portability and Accountability Act of 1997, and safeguards for maintaining confidentiality of patient safety data.

(4) The Cabinet for Health Services may contract with one (1) or more private entities to undertake the duties delineated in this section.

(5) The Cabinet for Health Services shall submit to the Governor and the Legislative Research Commission an annual report summarizing its activities which shall include a summary of reported events and any recommendations to improve patient safety.

SECTION 36. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) As a condition of licensure, every hospital and ambulatory surgery center shall establish a process for identifying and managing sentinel events. This process shall include the collection of data to monitor the performance of processes that involve risks or may result in sentinel events, analyzing trends in performance and performing root cause analyses to identify basic or causal factors on systems and processes that underlie variation in performance, and implementing improvements to reduce the risk of sentinel events.

(2) As a condition of licensure, every hospital and ambulatory surgery center shall report a sentinel event to the Cabinet for Health Services Patient Safety Center. Patient identifying information shall be removed prior to submitting the data

to the center. Hospitals and ambulatory surgery centers which are accredited by the Joint Commission on Accreditation of Healthcare Organizations shall be in compliance if they comply with joint commission standards for sentinel events. The cabinet shall analyze the root cause for each sentinel event directly reported to the center and provide evidence-based recommendations to the facility reporting the event. The cabinet shall annually obtain from the Joint Commission on Accreditation of Healthcare Organizations a nonidentifiable report summarizing the number and type of sentinel event and types of root causes reported to it by Kentucky hospitals and ambulatory surgery centers. The cabinet shall review sentinel events reported to it directly and those reported to the Joint Commission on Accreditation of Healthcare Organizations and annually send a nonidentifiable report to all licensed hospitals and ambulatory surgery centers summarizing the nature of reported events along with recommendations on improvements to prevent such errors in the future.

(3) As a condition of licensure, every hospital shall report all required hospital performance measures to the National Voluntary Hospital Reporting Initiative.

SECTION 37. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) As a condition of licensure, every hospital shall establish a patient safety program which includes the following elements:

(a) Assignment of an individual or group to manage an organization-wide safety program;

(b) Procedures to immediately respond to a system or process failure;

(c) Defined procedures for responding to internal reports of unanticipated adverse events;

(d) A clear system for internal reporting of unanticipated adverse events by health care workers which minimizes individual blame or retribution for involvement in an unanticipated adverse event;

(e) The collection of data to monitor performance with a focus on potentially high-risk processes; and

(f) The development of changes that improve performance and patient safety when undesirable patterns or trends in performance are identified.

(2) Nothing in this section shall limit a hospital's ability to take appropriate disciplinary action against a health care worker for failure to meet defined performance expectations or to take corrective action against a licensee for unprofessional conduct, including making false reports of unanticipated adverse events.

SECTION 38. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) All patient safety data reported under Section 36 of this Act and any other documents related thereto, and documents or reports regarding any recommendations, findings, and conclusions of the Patient Safety Center shall not be subject to Kentucky open records law and shall be considered privileged and confidential.

(2) All patient safety data collected by a health care facility which involves the investigation of a sentinel event or an unanticipated adverse event and any recommendations, finding, and conclusions of the center shall be considered privileged and confidential and shall not be subject to subpoena, nor shall that information be disclosed or compelled to be produced in any civil, criminal, administrative, or other proceeding or be deemed admissible as evidence in any civil, criminal, administrative, or other tribunal, mediation, or court, including but not limited to any case alleging medical negligence, medical malpractice, negligent credentialing, or breach of contract, for any reason. No person involved in the collection, review, development, or submission of patient safety data shall be subject to subpoena or compelled to testify regarding any data produced in the investigation of a sentinel event or unanticipated adverse event or any data submitted to the center, including but not limited to any case alleging medical negligence, medical malpractice, negligent credentialing, or breach of contract. Nothing in this section shall be construed to restrict or limit the right to discover or use in any civil, criminal, administrative, or other tribunal, mediation, or court proceeding any evidence, document, or record, which is subject to discovery independently of the reporting process mandated under this section.

Section 39. KRS 311.377 is amended to read as follows:

(1) Any person who applies for, or is granted staff privileges after June 17, 1978, by any health services organization subject to licensing under the certificate of need and licensure provisions of KRS Chapter 216B, shall be deemed to have waived as a condition of *the*[~~such~~] application or grant, any claim for damages for any good faith action taken by any person who is a member, participant in or employee of or who furnishes information, professional counsel, or services to any committee, board, commission, or other entity which is duly constituted by any licensed hospital, licensed hospice, licensed home health agency, health insurer, health maintenance organization, health services corporation, organized medical staff, medical society, or association affiliated with the American Medical Association, American Podiatry Association, American Dental Association, American Osteopathic Association, or the American Hospital Association, or a medical care foundation affiliated with[~~ such~~] a medical society or association, or governmental or quasigovernmental agency*, or any of its agents* when *the*[~~such~~] entity is performing the designated function of review of credentials or retrospective review and evaluation of the competency of professional acts or conduct of other health care personnel *or carrying out any of the requirements of Sections 34 to 38 of this Act*. This subsection shall have equal application to, and the waiver be effective for, those persons who, subsequent to June 17, 1978, continue to exercise staff privileges previously granted by any[~~ such~~] health services organization.

(2) [~~At all times in performing a designated professional review function,~~]The proceedings, records, opinions, conclusions, and recommendations of any committee, board, commission, medical staff, professional standards review organization, or other entity, as referred to in subsection (1) of this section shall be confidential and privileged and shall not be subject to discovery, subpoena, or introduction into evidence, in any civil action ***alleging any cause of action, including but not limited to any case alleging medical negligence, medical malpractice, negligent credentialing, or breech of contract,*** in any court or in any administrative proceeding before any board, body, or committee, whether federal, state, county, or city, except as specifically provided with regard to the board in KRS 311.605(2). This subsection shall not apply to any proceedings or matters governed exclusively by federal law or federal regulation.

(3) Nothing in subsection (2) of this section shall be construed to restrict or limit the right to discover or use in any civil action or other administrative proceeding any evidence, document, or record which is subject to discovery independently of the proceedings of the entity to which subsection (1) of this section refers.

(4) No person who presents or offers evidence in proceedings described in subsection (2) of this section or who is a member of any entity before which ***the***[~~such~~] evidence is presented or offered may refuse to testify in discovery or upon a trial of any civil action as to any evidence, document, or record described in subsection (3) of this section or as to any information within his own knowledge, except as provided in subsection (5) of this section.

(5) No person shall be permitted or compelled to testify concerning his testimony or the testimony of others except that of a defendant given in any proceeding referred to in subsection (2) of this section, or as to any of his opinions formed as a result of ***the***[~~such~~] proceeding.

(6) In any action in which the denial, termination, or restriction of staff membership or privileges by any health care facility shall be in issue, agents, employees, or other representatives of a health care entity may with the consent of ***the***[~~such~~] health care entity testify concerning any evidence presented in proceedings related to the facility's denial of ***the***[~~such~~] staff membership or privileges.

(7) Nothing in this section shall be construed to restrict or prevent the presentation of testimony, records, findings, recommendations, evaluations, opinions, or other actions of any entity described in subsection (1) of this section, in any statutory or administrative proceeding related to the functions or duties of ***the***[~~such~~] entity.

(8) In addition to the foregoing, the immunity provisions of the federal Health Care Quality Improvement Act of 1986, P.L. 99-660, shall be effective arising under state laws as of July 15, 1988.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 71, 92, 199, 365, 376, 384, 428, 441, 444, 456, HCR 114, HJR 69, 90, HB 406, 427,** and **430** have been posted for passage in the Regular Orders of the Day for February 18, 2004.

Orders of the Day

HB 404, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HB 404**. Agreed.

Representative Burch moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 404**. Agreed.

Representative Burch moved that **HB 404**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 91, Nays 4**. (See February 17, 2004, roll call on **HB 404** - Appendix.)

HB 404, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 404**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 264, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Graham moved the adoption of the Committee Substitute to **HB 264**. Agreed.

Representative Graham moved that **HB 264**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See February 17, 2004, roll call on **HB 264** - Appendix.)

HB 264, by way of Committee Substitute, was passed and the title agreed to.

Representative Graham moved that the vote by which **HB 264**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 314 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved that **HB 314** be passed.

On the roll call the vote was: **Yeas 96, Nays 1**. (See February 17, 2004, roll call on **HB 314** - Appendix.)

HB 314 was passed and the title agreed to.

Representative Lindsay moved that the vote by which **HB 314** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins moved that the rules be suspended to waive the posting requirement on **HB 471** and **HJR 150**. Agreed.

Representative Adkins moved that the rules be suspended to reassign **HB 489** to the Committee on Appropriations and Revenue. Agreed.

Representative J. Arnold moved that the rules be suspended to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 151, by Representatives J. Arnold and Palumbo: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Brenda Denise Cowan.

Motions, Petitions, and Communications (Continued)

Representative J. Arnold moved the adoption of the following **HR 151**:

HR 151, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Brenda Denise Cowan.

It is with heavy hearts and deep sadness that we learn of the premature passing of Brenda Denise Cowan, and we pause in silent reverence for her soul.

WHEREAS, Brenda Denise Cowan was born on May 9, 1963, a native of Sturgis, Union County, Kentucky, and longtime resident of Lexington, Fayette County, Kentucky, and she traversed these earthly bounds on February 13, 2004; and

WHEREAS, Brenda Denise Cowan was the loving daughter of the late Reverend Tabb Frank Scott Cowan Sr. and Ella Irene Dawson; she was the loving sister of two sisters, Myrtle Cowan of Madisonville and Helen Cowan of Louisville; and she was the loving sister of three brothers, the Reverend Glenn Cowan and Freddie Cowan, both of Madisonville, and Lynnwood Cowan of Orlando, Florida; and

WHEREAS, Brenda Denise Cowan graduated from the University of Kentucky with a B. S. degree in Psychology; she was employed with the Fayette County Fire Department for 12 years, where she was the first black female firefighter in Lexington, and where she had recently been promoted to Lieutenant at Station 18; she was of strong character and high integrity, and she was a dedicated professional firefighter, in the truest sense of the word; she was always prepared to face injury, and even death, to prevent injury to property and persons; and her tenacious courage in the line of duty will serve as a source of strength and encouragement for others; and

WHEREAS, in the aftermath of this tragedy, we are reminded of the grief and suffering afflicted upon the family and friends of Brenda Denise Cowan, how precious she was to her loved ones, and how her loved ones have been denied the opportunity of witnessing her reach her full potential; and we are also reminded that a life spent worthily should be measured by deeds, not years, and through her compassion, enthusiasm, and genuine love and concern for her fellow man, Brenda Denise Cowan is worthy of the highest commendation; and

WHEREAS, Brenda Denise Cowan was an active and devout member of Consolidated Baptist Church in Lexington, where she was greeter and on the culinary committee, and where her funeral service is being held on February 18, 2004; and

WHEREAS, the premature passing of Brenda Denise Cowan has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the premature passing of Brenda Denise Cowan, and extends to her loving family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Brenda Denise Cowan.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Lexington Fire Department, 219 East Third Street, Lexington, Kentucky 40508.

There being no objection, **HR 151** was adopted.

On the roll call for co-sponsors the vote was: **Yeas 96**. (See February 17, 2004, roll call to show co-sponsors on **HR 151**-Appendix.)

Representative Damron moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Damron moved that he be recorded as voting "yea" on **HB 420** and **445**. Agreed.

Representative Damron moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Damron moved that he be recorded as voting "nay" on **HB 362**. Agreed.

Representative Pasley moved that the rules be suspended to act on a Resolution. Agreed.

Representative Pasley moved the adoption of the following **HR 145**:

HR 145, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Paul W. Richardson Sr.

With deepest respect and admiration, we pay homage and tribute to our friend, mentor, and colleague, Paul W. Richardson Sr., and we pause in silent reverence for his soul.

WHEREAS, Paul W. Richardson Sr. was born on December 23, 1916, a native of Montgomery County, Kentucky, and longtime resident of Clark County, Kentucky, and he traversed these earthly bounds on September 14, 2003; and

WHEREAS, Paul W. Richardson Sr. was the loving son of the late Arthur Clay and Rebecca Ledford Richardson; he was the devoted husband of Nancy Ward Richardson, who preceded him in passing; he was the loving father of a son, Paul W. Richardson Jr.; he was the loving father-in-law of Carol Richardson; he was the proud grandfather of four grandchildren, Bradley Todd Richardson of Lexington; and Will Richardson, Ryan Taylor Richardson, and Susan Richardson Bishop, all of Winchester; and he was the proud great-grandfather of five great-grandchildren, Matthew Perry Richardson, Sarah Todd Richardson, Clay Wilson Richardson, Tate Hampton Richardson, and Holden Michael Bishop; and

WHEREAS, Paul W. Richardson Sr. served his country with honor and distinction in the United States Army during World War II; and

WHEREAS, Paul W. Richardson was a banker by profession and retired in 1981 as senior vice president of Peoples Commercial Bank after 41 years of dedicated service; and

WHEREAS, Paul W. Richardson was dedicated to the citizens of Clark County, where he was a member of the Winchester Lyons Club for more than 50 years, serving as its treasurer, president, district zone chairman, deputy district governor, and as governor; he was a member of the Winchester-Clark County Chamber of Commerce, and he was the recipient of the 1992 Citizen of the Year award; he served as Clark County treasurer; he was a member of the Winchester-Clark County Parks and Recreation Board; he was a member and treasurer of the Salvation Army; he was a member of SWEEP; he served as chairman of the Clark County Chapter of the American Red Cross; and he was a Mason and a Shriner; and

WHEREAS, after his retirement from the banking profession, Paul W. Richardson Sr. was elected to the Kentucky House of Representatives, where he represented the 73rd Legislative District of Clark and Powell Counties from 1976 through 1992; and while a member of the House of Representatives, he ably served on the Health and Welfare Committee, Transportation Committee, Labor and Industry Committee, Elections and Constitutional Amendments Committee, Capital Construction Committee, and as vice chairman of the Banking and Insurance Committee, where he also served as chairman of its Subcommittee on Financial Institutions; and

WHEREAS, when this honorable body reflects upon the memory of Paul W. Richardson Sr., it is with fond recollection that we remember him not only for his many legislative accomplishments and the friendships he made and sustained through the years, but also for his compassion for and understanding of the common man, which he demonstrated daily throughout his life; and

WHEREAS, Paul W. Richardson Sr. was a member of the First Christian Church in Winchester, where his funeral service was held on September 16, 2003, with the Reverend James Mahoney and Dr. Ed Mesta officiating; and

WHEREAS, the passing of Paul W. Richardson Sr. has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Paul W. Richardson Sr., and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Paul W. Richardson Sr.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. and Mrs. Paul W. Richardson Jr., 212 Hampton Avenue, Winchester, Kentucky 40391.

There being no objection, **HR 145** was adopted.

On the roll call for co-sponsors the vote was: **Yeas 90**. (See February 17, 2004, roll call to show co-sponsors on **HR 145**-Appendix.)

Representative Burch moved the adoption of the following **Legislative Citation No. 41**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the members of the Golden Horseshoes and Stonehurst Riding Club a dynamic 4-H Group from Jefferson County, Kentucky, who show and ride horses in national and international competitions, upon visiting the Capitol in Frankfort, Kentucky, to view a day in the 2004 Regular Session of the Kentucky General Assembly. Inasmuch as these esteemed young honorees have demonstrated a forthright interest in learning more about the history and legislative process of the Commonwealth of Kentucky through their attendance today; and who have also brought honor and acclaim to their community and this Commonwealth by their successful efforts to excel in the field of equestrian competition, the members of this honorable body are delighted to join with Representative Tom Burch in graciously welcoming them to the House Chambers on this day and in extending best wishes for their continued success and good fortune. Done in Frankfort, Kentucky, this seventeenth day of February, in the year two thousand and four.

Legislative Citation No. 41 was adopted without objection.

Representative Callahan moved to withdraw **HB 494**. Agreed.

Representative Meeks moved the adoption of the following **HR 149**:

HR 149, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Ruth Ann Wyatt.

With deepest respect and admiration, we pay tribute and homage to Ruth Ann Wyatt, and we pause in silent reverence for her eternal soul.

WHEREAS, Ruth Ann Wyatt was born on September 15, 1964, in Coldwater, Ohio to Ethel Ann and Carl B. Borger; and

WHEREAS, Ruth Ann Wyatt graduated Magna Cum Laude from the College of Design, Architecture, Art & Planning at the University of Cincinnati with a Bachelor of Science degree in Design in 1987, and graduated Summa Cum Laude from the School of Allied Health Sciences at the University of Louisville with a Master's degree in Art Therapy in 1994, having also received the President's Award; and

WHEREAS, Ruth Ann Wyatt was a registered Art Therapist, a certified Professional Art Therapist, a member of St. Francis of Assisi Catholic Church, a member of the Kentucky Art Therapy Association, a volunteer at Churchill Park School, a volunteer at Samuel Coleridge-Taylor Montessori School, and the owner of Good Design, LLC, a company specializing in quality graphic design for nonprofit and arts related organizations; and

WHEREAS, Ruth Ann Wyatt spent the majority of her adult professional life devoted to the practice of art therapy and the use of art as a means of self-expression, one that encourages the development of an individual's creativity as a vehicle for increased self-awareness, personal growth, and the resolution of emotional conflict; and

WHEREAS, Ruth Ann Wyatt was characterized by her extreme competence during her internship with LifeSpring, an inpatient psychiatric facility, and with the Jefferson Alcohol and Drug Abuse Center, a facility specializing in chemical dependency treatment, she performed admirably at the Lighthouse Adolescent Recovery Center, as an art therapist, chemical dependency counselor, and case manager, and distinguished herself as a teacher at the University of Louisville in expressive therapy; and

WHEREAS, Ruth Ann Wyatt fell in love with and married Kevin Wyatt, maintaining a remarkable friendship, and an affectionate marriage, which produced a loving and gifted daughter, Evelynn Wyatt, and a compassionate and generous son, Urban Wyatt; and

WHEREAS, Ruth Ann Wyatt will always be remembered for her love of her husband and children, her warm heart, her uncommon and unique stylishness, her love and concern for others, and her infectious smile; and

WHEREAS, Ruth Ann Wyatt leaves to cherish her memory her husband Kevin Wyatt; her daughter Evelynn Wyatt; her son Urban Wyatt; her brothers Dale Borger, Fred Borger, Gary Borger, Charles Borger, and John Borger; her sisters Beverly Thobe, Mary Petkoff, Brenda Schwieterman, and Jean Borger; her devoted in-laws; several special friends; and a host of other friends and acquaintances; and

WHEREAS, the passing of Ruth Ann Wyatt on February 8, 2004, has left a void that will be impossible to fill, and she is mourned across the length and breadth of the Commonwealth of Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its profound sense of bereavement and loss upon the passing of Ruth Ann Wyatt and extends to her relatives, friends, and acquaintances its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Ruth Ann Wyatt.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Kevin Wyatt, 2077 Ravinia Avenue, Louisville, Kentucky 40205.

There being no objection, **HR 149** was adopted.

Representative Graham moved that the rules be suspended to introduce and act on Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 157, by Representatives Graham, Barrows, and Burch: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Gene Hilen.

HR 158, by Representatives Graham and Barrows: A RESOLUTION adjourning the House of Representatives in loving memory and honor of A. J. "Jim" Higgs.

Motions, Petitions, and Communications (Continued)

Representative Graham moved the adoption of the following **HR 157**:

HR 157, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Gene Hilen.

With deepest respect and admiration, we pay homage and tribute to Gene Hilen, and we pause in silent reverence for his soul.

WHEREAS, Gene Hilen was born on October 22, 1936, a native of Lexington, Fayette County, Kentucky, and longtime resident of Frankfort, Franklin County, Kentucky, and he traversed these earthly bounds on February 16, 2004; and

WHEREAS, Gene Hilen was the loving son of the late George C. and Thelma Blackburn Hilen; he was the devoted husband of Anne Hicks Hilen; he was the loving father of two daughters, Gayle Hilen Baskey and Gwynne Hilen Tipton, both of Mt. Sterling; and he was the proud grandfather of four grandchildren; and he also leaves behind four brothers, Johnny Hilen of Winchester, and Hervy, Eddie, and Bobby Hilen, all of Lexington, and a sister, Cora Moynahan of Lexington; and

WHEREAS, Gene Hilen was one of the most highly recognized and awarded golf professionals in the Commonwealth of Kentucky; he had been a member of the Kentucky Section of the PGA of America since 1966; he had been a Life member of the PGA of America since 1984; he was inducted into the Kentucky Golf Hall of Fame in 1992; he was named one of Golf Digest America's Greatest Teachers in 2001; he was named the Kentucky Section PGA Golf Professional of the Year in 1980, the Kentucky Section PGA Junior Golf Leader in 1990 and 1999, the Kentucky Section PGA Teacher of the Year in 1986, 1991, and

1992, and the Kentucky Section PGA Quarter Century Award in 1991; he was named the Kentucky Section PGA Merchandiser of the Year in 1986; he became a member of the Western Hills Silver and Green Society in 2001; he was inducted into the Franklin County High School Hall of Fame in 1995; he was inducted into the University of Kentucky Golf Hall of Fame in 1997; he was the recipient of the Frankfort Civitan Award for work with Special Olympics in 1989; and he was the recipient of the Elks Distinguished Citizen Award in 2000; he had served as the golf professional at the Mt. Sterling Country Club, and at the time of his passing, he was the golf professional and director of golf at Juniper Hills Golf Course, a position he held for 26 years; and

WHEREAS, Gene Hilen was a devout member of First Christian Church in Frankfort, where he was a member of its Seedling Spirits Group, and where his funeral service will be held on February 20, 2004; and

WHEREAS, the passing of Gene Hilen has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Gene Hilen, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Gene Hilen.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Anne Hicks Hilen, 208 Glenwood Place, Frankfort, Kentucky 40601.

There being no objection, **HR 157** was adopted.

Representative Graham moved the adoption of the following **HR 158**:

HR 158, A RESOLUTION adjourning the House of Representatives in loving memory and honor of A. J. "Jim" Higgs.

With deepest respect and admiration, we pay homage and tribute to A. J. "Jim" Higgs, and we pause in silent reverence for his soul.

WHEREAS, Jim Higgs was born on April 17, 1936, a native of Paducah, McCracken County, Kentucky, and longtime resident of Frankfort, Franklin County, Kentucky, and he traversed these earthly bounds on February 16, 2004; and

WHEREAS, Jim Higgs was the loving son of the late A. J. Higgs and Francis Nabb Higgs; he was the loving father of a son, Brent Higgs of Frankfort, and a daughter, Cynthia Higgs of Lexington; and he was the proud grandfather of two grandchildren; and

WHEREAS, Jim Higgs graduated from Paducah Public Schools in 1954; he received his A.B. in History from Centre College in 1958, where he was on the Dean's List for four years; and he earned his J.D. degree from the University of Kentucky College of Law in 1967, graduating with Distinction; and

WHEREAS, Jim Higgs was admitted to the Kentucky Bar Association in 1968, and he served as Assistant Director of the Kentucky Bar Association in 1968, after which time he began his successful career in the general practice of law; he was appointed Frankfort City Judge in 1969; he served as Frankfort City Attorney from 1972 to 1973; he was elected by the citizens of Frankfort as Frankfort City Judge, serving from 1974 to 1978; he was General Counsel to the Kentucky Department of Libraries and Archives from 1977 to 1978; he served as Assistant Commonwealth's Attorney for the 48th Judicial Circuit from 1978 to 1984; he served as General Counsel to the state Personnel Board from 1983 to 1985; he was Master Commissioner for Franklin Circuit Court from 1984 to 1992; he served on the Frankfort Electric and Water Plant Board from 1985 to 1989, serving as its Chairman in 1989; and he served as City Solicitor for the City of Frankfort from 1992 to 2004; and

WHEREAS, during his tenure as City Solicitor for the City of Frankfort, Jim Higgs provided legal advice to two Mayors serving terms from 1992 to 2004; and he provided counsel to six terms of City Commissioners serving terms from 1992 to 2004; and

WHEREAS, when we remember A. J. "Jim" Higgs, we are reminded that he was a public servant, in the truest sense of the word; and he represented justice, fairness, and integrity, and he served as an inspiration to his peers; and

WHEREAS, the passing of A. J. "Jim" Higgs has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of A. J. "Jim" Higgs, and extends to his family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of A. J. "Jim" Higgs.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit two copies of this Resolution to Mr. Brent Higgs, 199 Blueridge Drive, Frankfort, Kentucky 40601; and to the Office of the Mayor, City of Frankfort, 315 West

Second Street, Frankfort, Kentucky 40601.

There being no objection, **HR 158** was adopted.

On the roll call for co-sponsors the vote was: **Yeas 79**. (See February 17, 2004, roll call to show co-sponsors on **HR 158**-Appendix.)

Representative Cherry moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Cherry moved that he be recorded as voting "yea" on **HB 162, 369, 412, 362, 420, 445,** and **HJR 43**. Agreed.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 517, by Representative Lindsay: AN ACT relating to the administration of trusts and estates.

HB 518, by Representative Callahan: AN ACT relating to revenue and taxation.

HB 519, by Representatives Barrows, Dw. Butler, and Geveden: AN ACT relating to retirement.

HB 520, by Representatives Rand and Bratcher: AN ACT relating to public decency.

HB 521, by Representatives Rand and Bratcher: AN ACT relating to the zoning of adult businesses.

HB 522, by Representatives Webb and B. Smith: AN ACT relating to the gasoline and special fuels excise tax.

HB 523, by Representatives Westrom and Vincent: AN ACT relating to consumer contracts.

HB 524, by Representative Sims: AN ACT relating to the Tourism Development Act.

HB 525, by Representative Rasche: AN ACT relating to the selection of school personnel.

HB 526, by Representative Collins: AN ACT relating to the Motor Vehicle Commission.

HB 527, by Representative Crimm: AN ACT relating to massage therapy.

HB 528, by Representatives Geveden, Buckingham, and Cherry: AN ACT relating to retirement.

HB 529, by Representatives Damron and Stein: AN ACT relating to long-term care ombudsman services.

HB 530, by Representatives Ford, Mobley, and Higdon: AN ACT relating to use of credit information in underwriting or rating insurance risks.

HB 531, by Representative Ford: AN ACT relating to constables.

HB 532, by Representatives Ford, Mobley, Damron, and Higdon: AN ACT relating to consumer credit.

HB 533, by Representative Hoffman: AN ACT relating to special license plates.

HR 152, by Representative Richards: A RESOLUTION honoring Kentucky's independent college and university students.

HJR 153, by Representatives Harmon and Meeks: A JOINT RESOLUTION urging the Commissioner of Education to appoint superintendents for the Kentucky School for the Blind and the Kentucky School for the Deaf based on the recommendations of search committees appointed by the Kentucky Board of Education.

HR 154, by Representatives Denham and Callahan: A RESOLUTION adjourning the House of Representatives in loving memory and honor of United States Army Sergeant Justin Scott.

HR 155, by Representatives Richards and Thomas: A RESOLUTION urging the United States Congress to amend Title ii of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

HJR 156, by Representative A. Arnold: A JOINT RESOLUTION authorizing Mark Herres to bring a civil action against the Commonwealth and appropriate state agencies.

HR 159, by Representative S. Lee: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Brenda Denise Cowan.

HR 160, by Representative Siler: A RESOLUTION amending House Rules 22 and 26.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Elections, Constitutional Amendments, and Intergovernmental Relations: **HB 484**

Labor and Industry: **HB 499**

Transportation: **HB 172, 385, 459, 495, HCR 124, HJR 147, HB 331, 386, 473, HJR 55, HR 140**

The Clerk announced that the following Bill has been withdrawn from Committee consideration:

Education: **HB 489**

Motions, Petitions, and Communications (Continued)

Representative Crenshaw moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Crenshaw moved that he be recorded as voting "yea" on **HB 162, 369,** and **388**. Agreed.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 324**, by Representative Dw. Butler:

HB 324, On page 1, line 14, by deleting "*of Section 1 of this Act*" and inserting "*this section*" in lieu thereof.

Floor Amendment No. 1 to the Committee Substitute to **HB 178**, by Representative Coleman:

HB 178, On page 3, line 3, after "*if*", insert "*:*", delete all succeeding new text through the end of line 5, and insert the following in lieu thereof:

1. The student is enrolled in a district-operated or district-contracted alternative program leading to a certificate of completion or a General Educational Development (GED) diploma; or

2. The student has withdrawn from school and is awarded a General Educational Development (GED) diploma by October 1 of the following school year.

Floor Amendment No. 1 to **HB 444**, by Representative Denham:

HB 444, On Page 1 line 14, by deleting "*growth of the agritourism industry*", and by inserting in lieu thereof, "*availability of agritourism experiences for members of the public*".

Floor Amendment No. 10 to the Committee Substitute to **HB 372**, by Representative Wayne:

HB 372, On page 10, line 13, after "*plan*" by adding "*, and the individual has a high-cost condition listed in KRS 304.17B-001*".

Floor Amendment No. 2 to the Committee Substitute to **HB 71**, by Representative Marzian:

HB 71, On page 9, line 10, after the period "*.*" and before the word "*Ninety*" insert the following:

"*The fines and costs for a violation of subsection (2) or (3) of KRS 189.459 shall be collected and disposed of in accordance with KRS 24A.180. Once deposited into the State Treasury,*"; and

On page 9, line 10, by changing the uppercase word "*Ninety*" to a lowercase word "*ninety*".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 71, Representatives Jenkins and Westrom

HB 92, Representative McKee

HB 116, Representative Crall

HB 124, Representative Crimm

HB 125, Representative Crimm

HB 336, Representative L. Clark

HB 349, Representative Meeks

HB 390, Representatives Stein and Simpson

HB 470, Representatives Stacy and Couch

HB 483, Representatives Cherry and Feeley

HB 488, Representative Sims

HB 489, Representative Draud

HB 519, Representative J. Adams

HB 520, Representative Crimm

HB 521, Representative Crimm

HCR 124, Representative McKee

HJR 136, Representative Crall

HR 139, Representatives Geveden, Stacy, Walton, Kerr, Stein, and McKee

HR 151, Representative Crenshaw

The following member filed a request to have his name withdrawn as co-sponsor of a Bill:

HB 500, Representative Geveden

Announcements

The following meetings were announced:

Majority Caucus - Upon recess, Supreme Court Chamber

Committee on Transportation - Thursday, February 19, 2004, Room 131, upon adjournment

Committee on Transportation - Thursday, February 19, 2004, 10:00 a.m.

Committee on Seniors, Military Affairs, and Public Safety - Today after Chairmen's Meeting

Subcommittee on General Government, Finance, and Public Protection - Wednesday, February 18, 2004, 12:00 Noon

Committee on Education - Wednesday, February 18, 2004, 8:27 a.m.

Committee on Tourism Development and Energy - Wednesday, February 18, 2004, 8:30 a.m.

Budget Review Subcommittee on Transportation - No meeting Wednesday

Committee on Judiciary - Wednesday, February 18, 2004, 12:00 Noon

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 2:00 p.m., Wednesday, February 18, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 2:00 p.m., Wednesday, February 18, 2004, was adopted by voice vote.

WEDNESDAY, FEBRUARY 18, 2004

THIRTIETH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Brother Tim Russ, Blue Grass Pike Baptist Church, Danville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of February 17, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 518, 522**

Banking and Insurance: **HB 517, 530, 532**

Education: **HB 525, HJR 153**

Health and Welfare: **HB 516, 529**

Judiciary: **HB 520, HJR 156**

Labor and Industry: **HB 523**

Licensing and Occupations: **HB 527**

Local Government: **HB 521, 531**

Seniors, Military Affairs and Public Safety: **HR 155**

State Government: **HB 519, 528, HR 160**

Tourism Development and Energy: **HB 524**

Transportation: **HB 526, 533**

House Floor: **HR 152, 154, 159**

Report of Committees

The Committee on Seniors, Military Affairs, and Public Safety reported **HB 435**, **HB 436**, with Committee Substitute and Committee Amendment attached thereto, **HB 454**, with Committee Substitute attached thereto, and **HB 460** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 435, AN ACT relating to fire departments and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95A.262 is amended to read as follows:

(1) The Commission on Fire Protection Personnel Standards and Education shall, in cooperation with the Cabinet for Health Services, develop and implement a continuing program to inoculate every paid and volunteer firefighter in Kentucky against hepatitis B. The program shall be funded from revenues allocated to the Firefighters Foundation Program fund pursuant to KRS 136.392 and 42.190. Any fire department which has inoculated its personnel during the period of July 1, 1991 to July 14, 1992, shall be reimbursed from these revenues for its costs incurred up to the amount allowed by the Cabinet for Human Resources for hepatitis B inoculations.

(2) Except as provided in subsection (3) of this section, the Commission on Fire Protection Personnel Standards and Education shall allot on an annual basis a share of the funds accruing to and appropriated for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county

districts established under authority of KRS 67.083, and volunteer fire departments created as nonprofit corporations pursuant to KRS Chapter 273. The commission shall allot eight thousand dollars ($8,000) annually to each qualifying department, and beginning on July 1, 2001, the commission shall allot eight thousand two hundred fifty dollars ($8,250) annually to each qualifying department. Any qualifying department which fails to participate satisfactorily in the Kentucky fire incident reporting system as described in KRS 304.13-380 shall forfeit annually five hundred dollars ($500) of its allotment. If two (2) or more qualified volunteer fire departments, as defined in KRS 95A.500 to 95A.560, merge after January 1, 2000, then the allotment shall be in accordance with the provisions of KRS 95A.500 to 95A.560. The commission shall recommend to the commissioner of the Department of Housing, Buildings and Construction the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A to define satisfactory participation in the Kentucky fire incident reporting system. Administrative regulations for determining qualifications shall be based on the number of both paid firefighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available, and such other matters or standards as will best effect the purposes of the volunteer fire department aid law. A qualifying department shall include at least twelve (12) firefighters, a chief, and at least one (1) operational fire apparatus or one (1) on order. Fifty percent (50%) of the firefighters shall have completed at least one-half (1/2) of one hundred fifty (150) training hours toward certification within the first six (6) months of the first year of the department's application for certification, and there shall be a plan to complete the one hundred fifty (150) training hours within the second year. These personnel, equipment, and training requirements shall not be made more stringent by the promulgation of administrative regulations. No allotment shall exceed the total value of the funds, equipment, lands, and buildings made available to the local fire units from any source whatever for the year in which the allotment is made. A portion of the funds provided for above may be used to purchase group or blanket health insurance and shall be used to purchase workers' compensation insurance, and the remaining funds shall be distributed as set forth in this section.

(3) There shall be allotted two hundred thousand dollars ($200,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund that shall be allocated each fiscal year of the biennium to the firefighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for firefighters. If any moneys in the training center fund remain uncommitted, unobligated, or unexpended at the close of the first fiscal year of the biennium, then such moneys shall be carried forward to the second fiscal year of the biennium, and shall be reallocated to and for the use of the training center fund, in addition to the second fiscal year's allocation of two hundred thousand dollars ($200,000). Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the Commission on Fire Protection Personnel Standards and Education as provided in subsection (4) of this section and shall comply with state laws applicable to capital construction projects.

(4) Applications for funding low-interest loans and firefighters' training centers shall be submitted to the Commission on Fire Protection Personnel Standards and Education for their recommendation, approval, disapproval, or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary.

(5) Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of fifty percent (50%) of its personnel certified as recognized by the Commission on Fire Protection Personnel Standards and Education.

(6) Upon the written request of any department, the Commission on Fire Protection Personnel Standards and Education shall make available a certified training program in a county of which such department is located.

(7) The amount of reimbursement for any given year for costs incurred by the Kentucky Community and Technical College System for administering these funds, including, but not limited to, the expenses and costs of commission operations, shall be determined by the commission and shall not exceed five percent (5%) of the total amount of moneys accruing to the Firefighters Foundation Program fund which are allotted for the purposes specified in this section during any fiscal year.

(8) The commission shall withhold from the general distribution of funds under subsection (2) of this section an amount which it deems sufficient to reimburse volunteer fire departments for equipment lost or damaged beyond repair due to hazardous material incidents.

(9) Moneys withheld pursuant to subsection (8) of this section shall be distributed only under the following terms and conditions:

(a) A volunteer fire department has lost or damaged beyond repair items of personal protective clothing or equipment due to that equipment having been lost or damaged as a result of an incident in which a hazardous material (as defined in any state or federal statute or regulation) was the causative agent of the loss;

(b) The volunteer fire department has made application in writing to the commission for reimbursement in a manner approved by the commission and the loss and the circumstances thereof have been verified by the commission;

(c) The loss of or damage to the equipment has not been reimbursed by the person responsible for the hazardous materials incident or by any other person;

(d) The commission has determined that the volunteer fire department does not have the fiscal resources to replace the equipment;

(e) The commission has determined that the equipment sought to be replaced is immediately necessary to protect the lives of the volunteer firefighters of the fire department;

(f) The fire department has agreed in writing to subrogate all claims for and rights to reimbursement for the lost or damaged equipment to the Commonwealth to the extent that the Commonwealth provides reimbursement to the department; and

(g) The department has shown to the satisfaction of the commission that it has made reasonable attempts to secure reimbursement for its losses from the person responsible for the hazardous materials incident and has been unsuccessful in the effort.

(10) If a volunteer fire department has met all of the requirements of subsection (9) of this section, the commission may authorize a reimbursement of equipment losses not exceeding ten thousand dollars ($10,000) or the actual amount of the loss, whichever is less.

(11) Moneys which have been withheld during any fiscal year which remain unexpended at the end of the fiscal year shall be distributed in the normal manner required by subsection (2) of this section during the following fiscal year.

(12) No volunteer fire department may receive funding for equipment losses more than once during any fiscal year.

(13) The commission shall make reasonable efforts to secure reimbursement from the responsible party for any moneys awarded to a fire department pursuant to this section.

(14) There shall be allotted each year of the 1992-93 biennium one million dollars ($1,000,000), and each year of the 1994-95, 1996-97, 1998-99, and 2000-01 bienniums one million dollars ($1,000,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund for the purpose of creating a revolving low-interest loan fund, which shall thereafter be self-sufficient and derive its operating revenues from principal and interest payments. The commission, in accordance with the procedures in subsection (4) of this section, may make low-interest loans, and the interest thereon shall not exceed three percent (3%) annually or the amount needed to sustain operating expenses of the loan fund, whichever is less, to volunteer fire departments for the purposes of major equipment purchases and facility construction. Loans shall be made to departments which achieve the training standards necessary to qualify for volunteer fire department aid allotted pursuant to subsection (2) of this section, and which do not have other sources of funds at rates which are favorable given their financial resources. The proceeds of loan payments shall be returned to the loan fund for the purpose of providing future loans. If a department does not make scheduled loan payments, the commission may withhold any grants payable to the department pursuant to subsection (2) of this section until the department is current on its payments. Money in the low-interest loan fund shall be used only for the purposes specified in this subsection. Any funds remaining in the fund at the end of a fiscal year shall be carried forward to the next fiscal year for the purposes of the fund.

(15) For fiscal year 2004-2005 and each fiscal year thereafter there is allotted one million dollars ($1,000,000) from the fund established in Section 2 of this Act to be used by the commission to conduct training-related activities.

Section 2. KRS 95A.220 is amended to read as follows:

(1) There is established the "Firefighters Foundation Program Fund" consisting of appropriations from the general fund of the Commonwealth of Kentucky, and insurance premium surcharge proceeds and earnings on the investments of those proceeds which accrue to this fund pursuant to KRS 42.190 and 136.392. The fund may also receive any other funds, gifts or grants made available to the state for distribution to local governments and volunteer fire departments in accordance with the provisions of KRS 95A.200 to 95A.300 and KRS 95A.262.

(2) All moneys remaining in this fund on July 1, 1982, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account. Beginning with the fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars ($3,000,000) shall lapse, but moneys in the revolving loan fund established in KRS 95A.262 shall not lapse. On and after July 1, 1999, moneys in this account shall not lapse.

(3) Moneys in the fund are hereby appropriated by the General Assembly for the purposes provided in KRS 95A.200 to 95A.300.

HB 436, AN ACT relating to volunteer fire department aid.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95A.262 is amended to read as follows:

(1) The Commission on Fire Protection Personnel Standards and Education shall, in cooperation with the Cabinet for Health Services, develop and implement a continuing program to inoculate every paid and volunteer firefighter in Kentucky against hepatitis B. The program shall be funded from revenues allocated to the Firefighters Foundation Program fund pursuant to KRS 136.392 and 42.190. Any fire department which has inoculated its personnel during the period of July 1, 1991 to July 14, 1992, shall be reimbursed from these revenues for its costs incurred up to the amount allowed by the Cabinet for Human Resources for hepatitis B inoculations.

(2) Except as provided in subsection (3) of this section, the Commission on Fire Protection Personnel Standards and Education shall allot on an annual basis a share of the funds accruing to and appropriated for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and volunteer fire departments created as nonprofit corporations

pursuant to KRS Chapter 273. The commission shall allot~~[eight thousand dollars ($8,000) annually to each qualifying department, and beginning on July 1, 2001, the commission shall allot]~~ eight thousand two hundred fifty dollars ($8,250) annually to each qualifying department***, but shall allot ten thousand dollars ($10,000) annually to a department if fifty percent (50%) or more of the firefighters in that department are certified as International Fire Service Accreditation Congress firefighter level I, and shall allot eleven thousand dollars ($11,000) annually to a department if fifty percent (50%) or more of the firefighters in that department are certified as International Fire Service Accreditation Congress firefighter II***. Any qualifying department which fails to participate satisfactorily in the Kentucky fire incident reporting system as described in KRS 304.13-380 shall forfeit annually five hundred dollars ($500) of its allotment. If two (2) or more qualified volunteer fire departments, as defined in KRS 95A.500 to 95A.560, merge after January 1, 2000, then the allotment shall be in accordance with the provisions of KRS 95A.500 to 95A.560. The commission shall recommend to the commissioner of the Department of Housing, Buildings and Construction the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A to define satisfactory participation in the Kentucky fire incident reporting system. Administrative regulations for determining qualifications shall be based on the number of both paid firefighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available, and such other matters or standards as will best effect the purposes of the volunteer fire department aid law. A qualifying department shall include at least twelve (12) firefighters, a chief, and at least one (1) operational fire apparatus or one (1) on order. Fifty percent (50%) of the firefighters shall have completed at least one-half (1/2) of one hundred fifty (150) training hours toward certification within the first six (6) months of the first year of the department's application for certification, and there shall be a plan to complete the one hundred fifty (150) training hours within the second year. These personnel, equipment, and training requirements shall not be made more stringent by the promulgation of administrative regulations. No allotment shall exceed the total value of the funds, equipment, lands, and buildings made available to the local fire units from any source whatever for the year in which the allotment is made. A portion of the funds provided for above may be used to purchase group or blanket health insurance and shall be used to purchase workers' compensation insurance, and the remaining funds shall be distributed as set forth in this section.

(3) There shall be allotted two hundred thousand dollars ($200,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund that shall be allocated each fiscal year of the biennium to the firefighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for firefighters. If any moneys in the training center fund remain uncommitted, unobligated, or unexpended at the close of the first fiscal year of the biennium, then such moneys shall be carried forward to the second fiscal year of the biennium, and shall be reallocated to and for the use of the training center fund, in addition to the second fiscal year's allocation of two hundred thousand dollars ($200,000). Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the Commission on Fire Protection Personnel Standards and Education as provided in subsection (4) of this section and shall comply with state laws applicable to capital construction projects.

(4) Applications for funding low-interest loans and firefighters' training centers shall be submitted to the Commission on Fire Protection Personnel Standards and Education for their recommendation, approval, disapproval, or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary.

(5) Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of fifty percent (50%) of its personnel certified as recognized by the Commission on Fire Protection Personnel Standards and Education.

(6) Upon the written request of any department, the Commission on Fire Protection Personnel Standards and Education shall make available a certified training program in a county of which such department is located.

(7) The amount of reimbursement for any given year for costs incurred by the Kentucky Community and Technical College System for administering these funds, including, but not limited to, the expenses and costs of commission operations, shall be determined by the commission and shall not exceed five percent (5%) of the total amount of moneys accruing to the Firefighters Foundation Program fund which are allotted for the purposes specified in this section during any fiscal year.

(8) The commission shall withhold from the general distribution of funds under subsection (2) of this section an amount which it deems sufficient to reimburse volunteer fire departments for equipment lost or damaged beyond repair due to hazardous material incidents.

(9) Moneys withheld pursuant to subsection (8) of this section shall be distributed only under the following terms and conditions:

  (a) A volunteer fire department has lost or damaged beyond repair items of personal protective clothing or equipment due to that equipment having been lost or damaged as a result of an incident in which a hazardous material (as defined in any state or federal statute or regulation) was the causative agent of the loss;

  (b) The volunteer fire department has made application in writing to the commission for reimbursement in a manner approved by the commission and the loss and the circumstances thereof have been verified by the commission;

  (c) The loss of or damage to the equipment has not been reimbursed by the person responsible for the hazardous materials incident or by any other person;

  (d) The commission has determined that the volunteer fire department does not have the fiscal resources to replace the equipment;

(e) The commission has determined that the equipment sought to be replaced is immediately necessary to protect the lives of the volunteer firefighters of the fire department;

(f) The fire department has agreed in writing to subrogate all claims for and rights to reimbursement for the lost or damaged equipment to the Commonwealth to the extent that the Commonwealth provides reimbursement to the department; and

(g) The department has shown to the satisfaction of the commission that it has made reasonable attempts to secure reimbursement for its losses from the person responsible for the hazardous materials incident and has been unsuccessful in the effort.

(10) If a volunteer fire department has met all of the requirements of subsection (9) of this section, the commission may authorize a reimbursement of equipment losses not exceeding ten thousand dollars ($10,000) or the actual amount of the loss, whichever is less.

(11) Moneys which have been withheld during any fiscal year which remain unexpended at the end of the fiscal year shall be distributed in the normal manner required by subsection (2) of this section during the following fiscal year.

(12) No volunteer fire department may receive funding for equipment losses more than once during any fiscal year.

(13) The commission shall make reasonable efforts to secure reimbursement from the responsible party for any moneys awarded to a fire department pursuant to this section.

(14) There shall be allotted each year of the 1992-93 biennium one million dollars ($1,000,000), and each year of the 1994-95, 1996-97, 1998-99, and 2000-01 bienniums one million dollars ($1,000,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund for the purpose of creating a revolving low-interest loan fund, which shall thereafter be self-sufficient and derive its operating revenues from principal and interest payments. The commission, in accordance with the procedures in subsection (4) of this section, may make low-interest loans, and the interest thereon shall not exceed three percent (3%) annually or the amount needed to sustain operating expenses of the loan fund, whichever is less, to volunteer fire departments for the purposes of major equipment purchases and facility construction. Loans shall be made to departments which achieve the training standards necessary to qualify for volunteer fire department aid allotted pursuant to subsection (2) of this section, and which do not have other sources of funds at rates which are favorable given their financial resources. The proceeds of loan payments shall be returned to the loan fund for the purpose of providing future loans. If a department does not make scheduled loan payments, the commission may withhold any grants payable to the department pursuant to subsection (2) of this section until the department is current on its payments. Money in the low-interest loan fund shall be used only for the purposes specified in this subsection. Any funds remaining in the fund at the end of a fiscal year shall be carried forward to the next fiscal year for the purposes of the fund.

The Committee Substitute to **HB 436** is as follows:

HB 436, AN ACT relating to volunteer fire department aid.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95A.262 is amended to read as follows:

(1) The Commission on Fire Protection Personnel Standards and Education shall, in cooperation with the Cabinet for Health Services, develop and implement a continuing program to inoculate every paid and volunteer firefighter in Kentucky against hepatitis B. The program shall be funded from revenues allocated to the Firefighters Foundation Program fund pursuant to KRS 136.392 and 42.190. Any fire department which has inoculated its personnel during the period of July 1, 1991 to July 14, 1992, shall be reimbursed from these revenues for its costs incurred up to the amount allowed by the Cabinet for Human Resources for hepatitis B inoculations.

(2) Except as provided in subsection (3) of this section, the Commission on Fire Protection Personnel Standards and Education shall allot on an annual basis a share of the funds accruing to and appropriated for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and volunteer fire departments created as nonprofit corporations pursuant to KRS Chapter 273. The commission shall allot~~[eight thousand dollars ($8,000) annually to each qualifying department, and beginning on July 1, 2001, the commission shall allot]~~ eight thousand two hundred fifty dollars ($8,250) annually to each qualifying department***, but shall allot ten thousand dollars ($10,000) annually to a department if fifty percent (50%) or more of the firefighters in that department are certified as International Fire Service Accreditation Congress firefighter level I, and shall allot eleven thousand dollars ($11,000) annually to a department if fifty percent (50%) or more of the firefighters in that department are certified as International Fire Service Accreditation Congress firefighter II***. Any qualifying department which fails to participate satisfactorily in the Kentucky fire incident reporting system as described in KRS 304.13-380 shall forfeit annually five hundred dollars ($500) of its allotment. If two (2) or more qualified volunteer fire departments, as defined in KRS 95A.500 to 95A.560, merge after January 1, 2000, then the allotment shall be in accordance with the provisions of KRS 95A.500 to 95A.560. The commission shall recommend to the commissioner of the Department of Housing, Buildings and Construction the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A to define satisfactory participation in the Kentucky fire incident reporting system. Administrative regulations for determining qualifications shall be based on the number of both paid

firefighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available, and such other matters or standards as will best effect the purposes of the volunteer fire department aid law. A qualifying department shall include at least twelve (12) firefighters, a chief, and at least one (1) operational fire apparatus or one (1) on order. Fifty percent (50%) of the firefighters shall have completed at least one-half (1/2) of one hundred fifty (150) training hours toward certification within the first six (6) months of the first year of the department's application for certification, and there shall be a plan to complete the one hundred fifty (150) training hours within the second year. These personnel, equipment, and training requirements shall not be made more stringent by the promulgation of administrative regulations. No allotment shall exceed the total value of the funds, equipment, lands, and buildings made available to the local fire units from any source whatever for the year in which the allotment is made. A portion of the funds provided for above may be used to purchase group or blanket health insurance and shall be used to purchase workers' compensation insurance, and the remaining funds shall be distributed as set forth in this section.

(3) There shall be allotted two hundred thousand dollars ($200,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund that shall be allocated each fiscal year of the biennium to the firefighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for firefighters. If any moneys in the training center fund remain uncommitted, unobligated, or unexpended at the close of the first fiscal year of the biennium, then such moneys shall be carried forward to the second fiscal year of the biennium, and shall be reallocated to and for the use of the training center fund, in addition to the second fiscal year's allocation of two hundred thousand dollars ($200,000). Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the Commission on Fire Protection Personnel Standards and Education as provided in subsection (4) of this section and shall comply with state laws applicable to capital construction projects.

(4) Applications for funding low-interest loans and firefighters' training centers shall be submitted to the Commission on Fire Protection Personnel Standards and Education for their recommendation, approval, disapproval, or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary.

(5) Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of fifty percent (50%) of its personnel certified as recognized by the Commission on Fire Protection Personnel Standards and Education.

(6) Upon the written request of any department, the Commission on Fire Protection Personnel Standards and Education shall make available a certified training program in a county of which such department is located.

(7) The amount of reimbursement for any given year for costs incurred by the Kentucky Community and Technical College System for administering these funds, including, but not limited to, the expenses and costs of commission operations, shall be determined by the commission and shall not exceed five percent (5%) of the total amount of moneys accruing to the Firefighters Foundation Program fund which are allotted for the purposes specified in this section during any fiscal year.

(8) The commission shall withhold from the general distribution of funds under subsection (2) of this section an amount which it deems sufficient to reimburse volunteer fire departments for equipment lost or damaged beyond repair due to hazardous material incidents.

(9) Moneys withheld pursuant to subsection (8) of this section shall be distributed only under the following terms and conditions:

(a) A volunteer fire department has lost or damaged beyond repair items of personal protective clothing or equipment due to that equipment having been lost or damaged as a result of an incident in which a hazardous material (as defined in any state or federal statute or regulation) was the causative agent of the loss;

(b) The volunteer fire department has made application in writing to the commission for reimbursement in a manner approved by the commission and the loss and the circumstances thereof have been verified by the commission;

(c) The loss of or damage to the equipment has not been reimbursed by the person responsible for the hazardous materials incident or by any other person;

(d) The commission has determined that the volunteer fire department does not have the fiscal resources to replace the equipment;

(e) The commission has determined that the equipment sought to be replaced is immediately necessary to protect the lives of the volunteer firefighters of the fire department;

(f) The fire department has agreed in writing to subrogate all claims for and rights to reimbursement for the lost or damaged equipment to the Commonwealth to the extent that the Commonwealth provides reimbursement to the department; and

(g) The department has shown to the satisfaction of the commission that it has made reasonable attempts to secure reimbursement for its losses from the person responsible for the hazardous materials incident and has been unsuccessful in the effort.

(10) If a volunteer fire department has met all of the requirements of subsection (9) of this section, the commission may authorize a reimbursement of equipment losses not exceeding ten thousand dollars ($10,000) or the actual amount of the loss, whichever is less.

(11) Moneys which have been withheld during any fiscal year which remain unexpended at the end of the fiscal year shall be

distributed in the normal manner required by subsection (2) of this section during the following fiscal year.

(12) No volunteer fire department may receive funding for equipment losses more than once during any fiscal year.

(13) The commission shall make reasonable efforts to secure reimbursement from the responsible party for any moneys awarded to a fire department pursuant to this section.

(14) There shall be allotted each year of the 1992-93 biennium one million dollars ($1,000,000), and each year of the 1994-95, 1996-97, 1998-99, and 2000-01 bienniums one million dollars ($1,000,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund for the purpose of creating a revolving low-interest loan fund, which shall thereafter be self-sufficient and derive its operating revenues from principal and interest payments. The commission, in accordance with the procedures in subsection (4) of this section, may make low-interest loans, and the interest thereon shall not exceed three percent (3%) annually or the amount needed to sustain operating expenses of the loan fund, whichever is less, to volunteer fire departments for the purposes of major equipment purchases and facility construction. Loans shall be made to departments which achieve the training standards necessary to qualify for volunteer fire department aid allotted pursuant to subsection (2) of this section, and which do not have other sources of funds at rates which are favorable given their financial resources. The proceeds of loan payments shall be returned to the loan fund for the purpose of providing future loans. If a department does not make scheduled loan payments, the commission may withhold any grants payable to the department pursuant to subsection (2) of this section until the department is current on its payments. Money in the low-interest loan fund shall be used only for the purposes specified in this subsection. Any funds remaining in the fund at the end of a fiscal year shall be carried forward to the next fiscal year for the purposes of the fund.

Section 2. KRS 95A.250 is amended to read as follows:

(1) Beginning July 1, 1982, an eligible local government shall be entitled to receive annually a supplement of two thousand seven hundred fifty dollars ($2,750) for each qualified professional firefighter it employs, and beginning on July 1, 1999, an annual supplement of three thousand dollars ($3,000) for each qualified professional firefighter it employs, plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan, or to a plan qualified under Section 401(a) or Section 457 of the Internal Revenue Code of 1954 as amended, provided that the employer's contribution on the supplement to any of these plans shall not exceed that amount which is required of employers under the County Employees Retirement System pursuant to KRS Chapter 78, to which the officer belongs, but no more than the required employer's contribution to the County Employees Retirement System hazardous duty category. In the case of County Employees Retirement System membership, the pension contribution on the supplement shall be paid whether the officer enters the system under hazardous duty coverage or nonhazardous coverage. The local unit of government shall pay the amount received for retirement coverage to the appropriate retirement system to cover the required employer contribution on the pay supplement. Should the foundation program funds be insufficient to pay employer contributions to the system, then the total amount available for pension payments shall be prorated to each eligible government so that each receives the same percentage of required pension costs attributable to the cash salary supplement.

(2) Each qualified professional firefighter, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by that local government the supplement which his *or her* qualifications brought to the local government. The supplement paid each qualified firefighter shall be in addition to his *or her* regular salary.

(3) Beginning with the effective date of this Act:

(a) The Kentucky Community and Technical College System shall be entitled to receive annually a supplement of three thousand dollars ($3,000) for each Kentucky fire and rescue training coordinator employed by the Kentucky Community and Technical College System who meets the qualifications required in KRS 95A.230, plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan; and

(b) The Kentucky Air National Guard shall be entitled to receive annually a supplement of three thousand dollars ($3,000) for each civilian firefighter employed by the Kentucky Air National Guard who meets the qualifications required in KRS 95A.230, plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan.

Each fire and rescue training coordinator employed by the Kentucky Community and Technical College System and each civilian firefighter employed by the Kentucky Air National Guard, whose employer receives a supplement pursuant to this subsection, shall be paid by that employer the supplement which his or her qualifications brought to the employer. The supplement paid shall be in addition to his or her regular salary.

The Committee Amendment No. 1 Title to **HB 436** is as follows:

HB 436, Amend the title to read as follows: "AN ACT relating to the Firefighters Foundation Program Trust Fund."

HB 454, AN ACT relating to the Disaster Relief Funding Program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

(1) The Disaster Relief Funding Program is established and shall be administered by the Division of Emergency Management in accordance with the provisions of this section.

(2) A Disaster Relief Funding Program trust fund is established to oversee and administer funds under the Disaster Relief Funding Program.

(3) Eligibility for funds under the Disaster Relief Funding Program shall be limited to cities, counties, urban-counties, charter counties, and consolidated local governments of the Commonwealth and individuals who are residents of, and living in, the Commonwealth on the date of the emergency.

(4) (a) Eligible applicants located in an area where there has been a declared emergency by the Governor, as defined in KRS 39A.020, may receive financial assistance when federal authorities decline to issue a federal declaration of disaster and federal assistance will not be forthcoming.

(b) Cities, counties, urban-counties, charter counties, and consolidated local governments of the Commonwealth who are eligible applicants may receive financial assistance to pay the state contribution required by the federal government in cases where there has been a federal declaration of disaster.

(5) (a) The Disaster Relief Funding Program trust fund may receive state appropriations, gifts, grants, federal funds, and any other funds both public and private.

(b) Funds received which are not immediately necessary for the operation of the Disaster Relief Funding Program trust fund shall remain in the Disaster Relief Funding Program trust fund for use in future declared emergencies.

(6) The Division of Emergency Management shall promulgate administrative regulations necessary to carry out the provisions of this section.

The Committee Substitute to **HB 454** is as follows:

HB 454, AN ACT relating to the Disaster Relief Funding Program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 39A IS CREATED TO READ AS FOLLOWS:

(1) The Disaster Relief Funding Program is established and shall be administered by the Division of Emergency Management in accordance with the provisions of this section.

(2) A Disaster Relief Funding Program trust fund is established to oversee and administer funds under the Disaster Relief Funding Program.

(3) Eligibility for funds under the Disaster Relief Funding Program trust fund shall be limited to the following:

(a) A city, county, urban-county, charter county, or consolidated local government of the Commonwealth; and

(b) Any individual who has a disaster-related need that cannot or will not be met by other relief agencies and who is a resident of, and living in, the Commonwealth on the date of the emergency.

(4) The Disaster Relief Funding Program trust fund may award financial assistance to an eligible applicant meeting either of the following conditions:

(a) The eligible applicant incurred damages in an area where the Governor has determined a declared emergency exists, as defined in KRS 39A.020, but where federal authorities decline to issue a federal declaration of disaster and federal assistance will not be forthcoming; or

(b) The eligible applicant is a city, county, urban-county, charter county, or consolidated local government that must pay a state contribution required by the federal government in cases where there has been a federal declaration of disaster.

(5) (a) 1. The Disaster Relief Funding Program trust fund may receive state appropriations, gifts, grants, federal funds, and any other funds both public and private.

2. The Disaster Relief Funding Program trust fund shall not publicly advertise for or solicit contributions from the general public that may impact fundraising efforts of not-for-profit disaster relief agencies.

(b) Funds received which are not immediately necessary for the operation of the Disaster Relief Funding Program trust fund shall remain in the Disaster Relief Funding Program trust fund for use in future declared emergencies.

(6) The Division of Emergency Management shall promulgate administrative regulations necessary to carry out the provisions of this section.

HB 460, AN ACT relating to waiver of tuition fees for dependents of veterans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.507 is amended to read as follows:

(1) The nonremarried spouse, regardless of age, and any child, stepchild, or orphan, ***under the age of***[~~between the ages of seventeen (17) and~~] twenty-three (23), of a deceased veteran shall not be required to pay any matriculation or tuition fees upon admission to any state-supported university, junior college, or vocational training institute for a period not in excess of thirty-six (36) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion, if the deceased parent or spouse:

(a) 1. Served in the Armed Forces of the United States during a national emergency, wars declared by Congress, or actions of the United Nations; or

2. Died while on active duty in the Armed Forces of the United States regardless of wartime service; or

3. Died as a result of a service-connected disability acquired while on active duty with the Armed Forces of the United States regardless of wartime service; and

(b) 1. Was a resident of the Commonwealth of Kentucky at the time of death; or

2. Was married to a resident of Kentucky at the time of death; and

3. If discharged, was under honorable conditions.

(2) In order to obtain the benefits conferred by subsection (1), the parent-child relationship must be shown by birth certificate, adoption papers, marriage certificate, or other documentary evidence. A stepchild must have been a member of the veteran's household at the time of the veteran's death. The spousal relationship must be shown by a marriage certificate or other documentary evidence. The parent's or spouse's service and the cause of death must be evidenced by certification from the records of the Kentucky Department of Military Affairs, the Veterans Administration Records, or the Department of Defense of the United States. In the event one so admitted to a state-supported university, junior college, or vocational training institution under this section shall have obtained a cash scholarship paid or payable to the institution, from whatever source, the amount of the scholarship shall be applied to the credit of the applicant in the payment of incidental expenses of attendance at the institution, and any balance, if the terms of the scholarship permit, shall be returned to the applicant.

Section 2. KRS 164.515 is amended to read as follows:

(1) The spouse, regardless of age, and any child, stepchild, or orphan***, under the age of twenty-three (23),*** of a permanently and totally disabled member of the Kentucky National Guard or Reserve Component injured while on state active duty, active duty for training, or inactive duty training, or a permanently and totally disabled war veteran, or a one hundred percent (100%) service-connected disabled veteran regardless of wartime service, or prisoner of war or member of the Armed Services declared missing in action[~~, who is over the age of seventeen (17) and under the age of twenty-three (23)~~] shall not be required to pay any matriculation or tuition fees upon his admission to any state-supported institution of higher education or to any state-supported vocational training school for a period not in excess of thirty-six (36) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.

(2) To be entitled to benefits under this section the parent or stepparent of the child claiming benefits if living must be rated permanently and totally disabled for pension purposes or one hundred percent (100%) disabled for compensation purposes by the United States Veterans Administration or the Department of Defense. If the veteran is deceased, the claim to benefits is to be based on the rating held by the veteran at the time of death or if a prisoner of war or missing in action, must have been declared as such by the Department of Defense. Members of the Kentucky National Guard must be rated permanently and totally disabled as provided in KRS Chapter 342. The parent's, stepparent's, or spouse's service and rating must be evidenced by certification from the records of the Kentucky Department of Military Affairs, Veterans Administration Records, or the Department of Defense of the United States.

(3) The parent-child relationship must be shown by birth certificate, legal adoption papers, marriage certificate, or other documentary evidence. A stepchild must be a member of the veteran's household. The spousal relationship must be shown by a marriage certificate or other documentary evidence.

(4) To entitle a spouse, child, stepchild, or orphan to benefit under this section the disabled member of the National Guard or Reserve Component veteran living or deceased must have served on state active duty, active duty for training, or inactive duty training or active duty with the Armed Forces of the United States, and his discharge must have been under honorable conditions. He must be a resident or, if deceased, have been a resident of the Commonwealth of Kentucky.

(5) No provision of this section shall serve to deny these benefits to an eligible spouse, child, stepchild, or orphan, who enlists, or who fulfills a military obligation, in the Armed Forces of the United States and is discharged under honorable conditions; the period of time spent in the military service to be compensated by like time, beyond the age of twenty-three (23) years if required, but not in excess of the period of enrollment as set forth in subsection (1) of this section.

(6) The marriage of an eligible child, stepchild, or orphan, shall not serve to deny full entitlement to the benefits provided in this section.

The Committee on Tourism Development and Energy reported **HB 296**, with Committee Substitute attached thereto, **HJR 143**, and **HJR 150** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 296, AN ACT relating to fair competition in the marketing of motor fuel.

WHEREAS, the General Assembly finds that the marketing of motor fuel in the Commonwealth affects the public interest; and

WHEREAS, the General Assembly finds that independent and small dealers and distributors of motor fuel are vital to a healthy, competitive marketplace and that certain marketing practices are contrary to the public interest because they impair a fair, competitive environment and tend to create and foster monopolies; and

WHEREAS, the General Assembly finds that independent and small dealers and distributors of motor fuel have made significant investments in property, equipment and environmental controls for the purpose of making motor fuel available to all areas of the Commonwealth; and

WHEREAS, the General Assembly finds that independent and small dealers and distributors cannot survive in a market environment that allows certain pricing schemes at the wholesale or retail level; and

WHEREAS, the General Assembly finds that subsidized pricing of motor fuel is inherently unfair, reduces competition, and ultimately tends to increase the price of motor fuel while decreasing the accessibility and availability of motor fuel in some areas; and

WHEREAS, the General Assembly finds that unfair competition that injures a single competitor results in injury to the entire market, thus creating an environment that injures and is contrary to the public interest; and

WHEREAS, the General Assembly declares it is the legislature's intent to encourage fair and honest competition, and to safeguard the public against the creation of monopolies or other unfair methods of competition, involving the sale of motor fuel in both the wholesale and retail trades within the Commonwealth; and

WHEREAS, the General Assembly declares that it is an unfair trade practice to advertise, offer for sale, or sell motor fuel below cost or at a cost lower than that charged other persons on the same marketing level; and

WHEREAS, the General Assembly declares it to be the policy of the Commonwealth to promote the general welfare through the prohibition of unfair trade practices; and

WHEREAS, the General Assembly declares the purpose of this Act is to carry out fair competition in the public's interest, provide for exceptions under limited circumstances, provide for the enforcement of the provisions of this Act, and provide penalties for violating the provisions of this Act;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 7 of this Act unless the context otherwise requires:

(1) "Affiliate" means a person who is controlled by, or under common control with, any refiner, other than by means of a franchise;

(2) "Competition" means the vying for motor fuel sales between two (2) or more sellers in the same relevant geographic market at the same level of distribution;

(3) "Dealer" means a person, other than a refiner or a wholesaler, who is engaged in the business of selling motor fuel at a retail facility;

(4) "Motor fuel" means motor fuel as defined in KRS 363.900;

(5) "Nonrefiner" means a person other than a refiner engaged in the sale of motor fuel;

(6) "Nonrefiner cost" means the nonrefiner's invoice cost of the motor fuel, by grade, less credit card allowances, trade discounts, and rebates actually received, to which shall be added federal, state, and local taxes and inspection fees applicable to motor fuel; freight charges at the retail facility; and amortized costs attributed to the UST system;

(7) "Person" means an individual, firm, association, organization, partnership, business trust, joint stock company, company, corporation, or legal entity;

(8) "Posted terminal price" means a refiner's posted price at a terminal, by grade of motor fuel, to the wholesale class of trade within a relevant geographic market. If a refiner does not have a posted terminal price in a relevant geographic market, the refiner's posted terminal price shall be deemed to be no lower than the lowest posted terminal price of motor fuel of like grade and quality of any other refiner selling to the wholesale class of trade in the relevant geographic market;

(9) "Refiner" means a person who stores or exchanges motor fuel at a terminal facility inside or outside the boundaries of the Commonwealth and who sells or transfers motor fuel through the loading rack at a terminal facility, or produces or refines motor fuel, whether the production or refining occurs within the boundaries of the Commonwealth or elsewhere, and includes an affiliate of the refiner with respect to the affiliate's sale of motor fuel;

(10) "Refiner cost" means a refiner's posted terminal price plus state, federal, and local taxes, inspection fees applicable to motor fuel, freight charges to the refiner's retail facility, and amortized costs attributed to the UST system;

(11) "Relevant geographic market" means the geographic area of effective competition;

(12) "Retail facility" means retail facility as defined in KRS 363.900;

(13) "Sale" or "sell" means any transfer, gift, sale, barter, offer for sale, or advertisement for sale in any manner or by any means, including any transfer of motor fuel from any person or company to itself or an affiliate at another level of distribution, but does not include product exchanges at the wholesale level of distribution;

(14) "Supplier" means a wholesaler or person that supplies motor fuel to any retail facility;

(15) "Terminal facility" means a facility used for the purpose of storing, handling, or transferring motor fuel, but does not include bulk storage facilities owned or operated by a wholesaler;

(16) "UST system" means the tanks, piping, and pumps associated with the sale of motor fuel at retail facilities; and

(17) "Wholesaler" means a person, other than a refiner or dealer, who purchases motor fuel at a terminal facility and supplies motor fuel to retail facilities.

SECTION 2. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful for a refiner or nonrefiner who is engaged in commerce in the Commonwealth to sell any grade and quality of motor fuel at retail below refiner or nonrefiner cost where the effect is to injure competition.

(2) It shall be unlawful for a refiner who is engaged in commerce in the Commonwealth to sell any grade and quality of motor fuel at a retail facility at a price that is below the price charged by the refiner to a wholesaler or dealer under written contract for the like grade and quality of motor fuel, to the extent that the wholesaler or dealer resells the motor fuel in the relevant geographic market where the refiner's retail price is in effect, where the effect is to injure competition.

(3) It shall be unlawful for a refiner or nonrefiner engaged in commerce in the Commonwealth to sell for resale any grade and quality of motor fuel at a price lower than the price at which the seller contemporaneously sells motor fuel of like grade and quality to another person on the same level of distribution within the same relevant geographic market as the purchaser, where the effect is to injure competition.

(4) It shall be unlawful for a refiner or nonrefiner engaged in commerce in the Commonwealth to knowingly receive for resale any grade and quality of motor fuel at a price lower than the price at which the seller from which the motor fuel is purchased or received contemporaneously sells motor fuel of like grade and quality to another person on the same level of distribution and within the same relevant geographic market as the purchaser, where the effect is to injure competition.

(5) It shall be unlawful for a refiner engaged in commerce in the Commonwealth to offer or give any rebate, subsidy, or concession on the sale of motor fuel, either directly or indirectly, when the refiner does not provide the same rebate, subsidy, or concession on proportionately equal terms to all persons purchasing for resale in the relevant geographic market, where the effect is to injure competition. If a wholesaler receives a rebate, rent subsidy, or concession, the wholesaler shall offer the rebate, rent subsidy, concession, or the equivalent of the rebate, rent subsidy, or concession to any retail outlet supplied by the wholesaler on proportionately equal terms. A rebate, subsidy, or concession provided in a good faith effort to meet a competitor's price is not a violation of Sections 1 to 7 of this Act, if the refiner provides the same rebate, subsidy, or concession to all similarly situated persons buying the motor fuel in the relevant geographic market on proportionally equal terms.

SECTION 3. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of Sections 1 to 7 of this Act shall not apply to:

- *(a) A refiner's or nonrefiner's sale of motor fuel below refiner or nonrefiner cost made in good faith to meet an equally low price of a competitor selling motor fuel in the same relevant geographic market of like grade and quality, even if the competitor's price is a violation of Sections 1 to 7 of this Act;*
- *(b) The sale of motor fuel by any refiner or nonrefiner below refiner or nonrefiner cost for a bona fide clearance sale for the purpose of discontinuing trade in the motor fuel or for the purpose of liquidating a business;*
- *(c) The sale of a refiner's motor fuel by a fiduciary or other officer under the order or discretion of any court;*
- *(d) An isolated, inadvertent incident involving activity prohibited under Section 2 of this Act;*
- *(e) Sales made during a grand opening to introduce a new or remodeled business, if the grand opening does not exceed three (3) days and is held within sixty (60) days from the date the new or remodeled business begins operations; and*
- *(f) Sales of motor fuel of like grade and quality at different prices to persons at the same level of distribution if the difference in price is due to a difference in the cost of sale or delivery resulting from differing methods or quantities in which the grade and quality of motor fuel is sold or delivered.*

(2) Any contract, express or implied, made by any person in violation of Sections 1 to 7 of this Act, shall be illegal and void and recovery shall not be permitted.

SECTION 4. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) A person who knowingly violates the provisions of Sections 1 to 7 of this Act shall be assessed a fine not to exceed ten

thousand dollars ($10,000) per day during which the violation occurs.

(2) The Attorney General may investigate all claims arising under Sections 1 to 7 of this Act. During the investigatory phase, the Attorney General may issue subpoenas to assist in the fact-finding process. Upon completion of the investigatory phase, the Attorney General may elect to sue for recovery of fines if the Attorney General has a good faith belief that an infraction has occurred.

(3) Damages in any action by the Attorney General shall be limited to the amount of the fine assessed during the violation period. The sum assessed and recovered shall be distributed to the Kentucky Revenue Cabinet.

SECTION 5. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

(1) A person injured as a result of an activity or practice that violates Sections 1 to 7 of this Act may bring a civil action for appropriate relief, including an action for a declaratory judgment, injunctive relief, and actual damages.

(2) Actual damages found to have resulted from violations of Sections 1 to 7 of this Act shall be tripled by the court. The court shall award a reasonable attorney's fee to the prevailing plaintiff and may award a reasonable attorney's fee to the prevailing defendant.

SECTION 6. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

Any action brought by the Attorney General's Office or by a competitor for violations of Sections 1 to 7 of this Act shall be brought within two (2) years after the alleged violation occurred or should reasonably have been discovered.

SECTION 7. A NEW SECTION OF KRS CHAPTER 365 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 7 of this Act may be cited as the Kentucky Fair Competition Act of 2004.

The Committee Substitute to **HB 296** is as follows:

HB 296, AN ACT relating to fair competition in the marketing of motor fuel.

WHEREAS, the General Assembly finds that the marketing of motor fuel in the Commonwealth affects the public interest; and

WHEREAS, the General Assembly finds that independent and small dealers and distributors of motor fuel are vital to a healthy, competitive marketplace and that certain marketing practices are contrary to the public interest because they impair a fair, competitive environment and tend to create and foster monopolies; and

WHEREAS, the General Assembly finds that independent and small dealers and distributors of motor fuel have made significant investments in property, equipment and environmental controls for the purpose of making motor fuel available to all areas of the Commonwealth; and

WHEREAS, the General Assembly finds that independent and small dealers and distributors cannot survive in a market environment that allows certain pricing schemes at the wholesale or retail level; and

WHEREAS, the General Assembly finds that subsidized pricing of motor fuel is inherently unfair, reduces competition, and ultimately tends to increase the price of motor fuel while decreasing the accessibility and availability of motor fuel in some areas; and

WHEREAS, the General Assembly finds that unfair competition that injures a single competitor results in injury to the entire market, thus creating an environment that injures and is contrary to the public interest; and

WHEREAS, the General Assembly declares it is the legislature's intent to encourage fair and honest competition, and to safeguard the public against the creation of monopolies or other unfair methods of competition, involving the sale of motor fuel in both the wholesale and retail trades within the Commonwealth; and

WHEREAS, the General Assembly declares that it is an unfair trade practice to advertise, offer for sale, or sell motor fuel below cost or at a cost lower than that charged other persons on the same marketing level; and

WHEREAS, the General Assembly declares it to be the policy of the Commonwealth to promote the general welfare through the prohibition of unfair trade practices;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Legislative Research Commission is requested to have a study conducted of the effect of subsidized pricing on competition in the retail motor fuel business. Particular attention should be directed to the effect on small and independent motor fuel dealers.

Section 2. The Legislative Research Commission is authorized to retain a consultant if the interim joint committee which undertakes the study recommends it.

Section 3. A report shall be made to the Legislative Research Commission on or before December 1, 2004.

Section 4. Provisions of this Act to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

HJR 143, A JOINT RESOLUTION designating the Lincoln Jamboree as a Kentucky Country Music Landmark.

WHEREAS, on September 11, 1954, Joel Ray Sprowls did commence the operation of the Lincoln Jamboree in Hodgenville, Kentucky; and

WHEREAS, the Lincoln Jamboree has provided quality family entertainment for five decades; and

WHEREAS, the Lincoln Jamboree has offered its stage to hundreds of aspiring artists, many attaining national fame, to hone their talents and skills; and

WHEREAS, the Lincoln Jamboree has been host to hundreds of thousands of patrons from all 50 states and many foreign countries, providing a positive and significant economic impact on Kentucky tourism; and

WHEREAS, the Lincoln Jamboree has become a vital part of the local and regional economy; and

WHEREAS, the General Assembly of the Commonwealth wishes to pay special tribute to one of Kentucky's premier country music entertainment attractions during the year of its 50th anniversary;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. By virtue of its contributions to Kentucky's rich country music heritage, the Lincoln Jamboree is designated as a Kentucky Country Music Landmark.

HJR 150, A JOINT RESOLUTION directing the Office for the New Economy to study state-owned resources relating to broadband and cellular phone services and opportunities for public-private partnerships.

WHEREAS, Kentucky's Center for Information Technology Enterprise, Incorporated (CITE) reports that the Commonwealth's need for continuous, high-speed Internet access, or broadband availability, represents a major impediment for economic development in Kentucky's rural communities; and

WHEREAS, broadband service across the Commonwealth could result in an additional 14,000 jobs and $5 billion to Kentucky's gross state product, according to CITE's report, "Kentucky's Information Technology Imperative"; and

WHEREAS, the National Center for Small Communities, in testimony to the U.S. House of Representatives' Small Business Committee, reported that the major digital divide depressing rural businesses is the lack of broadband high speed Internet access in rural areas; and

WHEREAS, the National Center for Small Communities reported to the U.S. Congress, the U.S. Department of Agriculture, and the U.S. Department of Commerce of the severe disadvantages placed upon rural businesses by the lack of high speed Internet access in rural communities; and

WHEREAS, Kentucky state government's resources include extensive land holdings, more than 4,000,000 square feet in Franklin County alone, and in other urban and rural communities throughout the Commonwealth; and

WHEREAS, Kentucky owns resources not only at state and regional universities and state parks, but also in state owned police, transportation, and other facilities which, if efficiently shared, could improve rural citizens' access to broadband technology and cellular phone service;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Kentucky's state agencies shall strive to continuously improve their delivery of products and services to the citizens of this Commonwealth by the most effective and efficient means possible, placing special priority on rural communities whose access to broadband technology and cellular service lags behind their urban counterparts.

Section 2. The Office of the New Economy, in cooperation with the Center for Information Technology Enterprise, shall conduct an inventory of state owned resources, including those available at universities, community colleges, state police posts, state parks and other state resources which could be used to help deploy broadband and cellular service to Kentucky's rural citizens.

Section 3. The Office of the New Economy shall evaluate and recommend opportunities for more efficient use of existing state resources to improve technology access in rural areas and identify possible public and private partnerships, facilitated by these resources, which could improve economic opportunities for rural communities.

Section 4. The Office of the New Economy shall complete this report by October 1, 2005, and shall present its findings to the Legislative Research Commission.

The Committee on Education reported **HB 483, HCR 120, HCR 121, HCR 122, HCR 123, HJR 129,** with Committee Substitute attached thereto, **HCR 134** with Committee Amendment attached thereto, and **HJR 135,** with Committee Substitute attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 483, AN ACT relating to the Public Service Student Law School Loan Assistance Program and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act:

(1) "Authorized reimbursement period" means a two (2) year period during which the student law school loan expenses of an eligible attorney are authorized to be reimbursed under Section 2 of this Act.

(2) "Eligible attorney" means an attorney:

- *(a) Currently employed either full-time or part-time by the:*
  - *1. Office of Attorney General or the Prosecutors Advisory Council pursuant to KRS Chapter 15, including assistant Commonwealth's attorneys, assistant county attorneys, and assistant attorney generals; or*
  - *2. Department of Public Advocacy under KRS Chapter 31, including those attorneys employed full-time by a nonprofit organization operating under a contract with the Department of Public Advocacy pursuant to KRS Chapter 31, or part-time on contract with the Department of Public Advocacy pursuant to KRS Chapter 31; or*
  - *3. Nonprofit legal services organizations designated as eligible to receive funds from the federal Legal Services Corporation to provide civil legal services to the indigent pursuant to KRS Chapter 27A; and*
- *(b) Whose application under Section 2 of this Act has been accepted and authorized to receive assistance in the repayment of his or her student law school loan expenses by the Kentucky Higher Education Assistance Authority.*

(3) "Student law school loan expenses" means the cumulative total of the eligible attorney's outstanding student law school loans; and

(4) "Student law school loan" means any indebtedness incurred by the eligible attorney solely to pay higher education expenses covering the cost of attendance at any law school at which the eligible attorney completed course work required to obtain a law degree. Student law school loan includes indebtedness used to refinance indebtedness that qualifies as a student law school loan and shall not include any indebtedness owed to a person who is related to the eligible attorney within the meaning of section 267(b) or 707(b)(1) of the Internal Revenue Code.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

(1) The Public Service Student Law School Loan Assistance Authority is hereby created and shall be administered by the Kentucky Higher Education Assistance Authority. Any eligible attorney as defined in Section 1 of this Act may apply to the Kentucky Higher Education Assistance Authority for assistance under the program in repaying the attorney's student law school expenses.

(2) To be accepted for student law school loan repayment assistance, an applying eligible attorney shall:

- *(a) Be currently licensed to practice law in the Commonwealth of Kentucky; and*
- *(b) Sign a statement agreeing to remain in his or her present employment for a period of two (2) years or repay in full any funds that were paid to the eligible attorney during that reimbursement period.*

(3) The corporation specified in Section 6 of this Act shall, to the extent funds are appropriated and available for such purposes, either advance a new loan to discharge the student law student school loans or authorize reimbursement to all eligible attorneys who apply and meet the qualifications of subsection (2) of this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Higher Education Assistance Authority shall annually reimburse an eligible attorney for a portion of the attorney's student law school loan expenses actually paid by the eligible attorney in the preceding year during the authorized reimbursement period, to the extent funds are appropriated and available, as determined under subsection (2) of this section.

(2) The portion of student law school loan expense to be reimbursed each year to an eligible attorney shall be an amount determined as follows:

- *(a) For a full-time attorney, the amount shall be the aggregate of the lesser of the eligible attorney's scheduled monthly payments for student law school loan expenses or five hundred dollars ($500) per month; and*
- *(b) For a part-time attorney, the amount shall be the aggregate of the lesser of one-half (1/2) of the eligible attorney's scheduled monthly payments for student law school loan expenses or two hundred fifty dollars ($250) per month.*

(3) An eligible attorney receiving student law school loan assistance who voluntarily terminates his or her employment before the expiration of the authorized reimbursement period shall be required to repay in full any funds that were paid to the eligible attorney during that reimbursement period, with interest accruing at the annualized rate applicable to the student law school loan expenses reimbursed.

(4) An eligible attorney receiving student law school loan assistance who takes a leave of absence or whose employment is involuntarily terminated shall be responsible for all student law school loan payments during the leave of absence or

after the date of termination.

(5) An eligible attorney whose employment is terminated after the expiration of his or her authorized reimbursement period shall be responsible for all future unpaid expenses.

(6) After the expiration of an eligible attorney's authorized reimbursement period, an attorney who desires further student law school loan assistance shall be required to reapply for the assistance for a new two (2) year period, under the provisions of Section 4 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Higher Education Assistance Authority shall administer the provisions of Sections 1 to 5 of this Act.

(2) The Kentucky Higher Education Assistance Authority shall promulgate administrative regulations that create an application and repayment process for the administration of Sections 1 to 5 of this Act.

(3) The Kentucky Higher Education Assistance Authority may, in accordance with any administrative regulations promulgated by the authority, delegate to the entities employing eligible attorneys the following responsibilities:

(a) Certifying an applicant's employment status, and

(b) Notifying the authority of the termination of employment or leave of absence, last known residential address, business and residential phone numbers, and any information about new employment of an eligible attorney.

(4) Reimbursement of student law school loan expenses shall not be awarded to any person who is in default on any obligation to the Kentucky Higher Education Assistance Authority or the Kentucky Higher Education Student Loan Corporation under any program administered by the Kentucky Higher Education Assistance Authority or the Kentucky Education Student Loan Corporation until financial obligations to the Kentucky Higher Education Student Loan Corporation are satisfied, except that ineligibility for this reason may be waived by the Kentucky Higher Education Assistance Authority at its sole discretion.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164A IS CREATED TO READ AS FOLLOWS:

(1) The funds received to implement Sections 1 to 5 of this Act shall be credited to the Public Service Student Law School Loan Assistance Program trust fund, which is hereby created in the State Treasury.

(2) Federal funds or other funds that may be made available to supplement or match state funds for the Public Service Student Law School Loan Assistance Program created by Section 1 of this Act shall be credited to the trust fund created in subsection (1) of this section.

(3) Funds deposited to the credit of the Public Service Student Law School Loan Assistance Program trust fund, including funds recovered from attorneys that failed to complete their required service during the reimbursement period, shall be used to finance the Public Service Student Law School Loan Assistance Program created by Section 2 of this Act, as well as to defray administrative expenses incurred by the Kentucky Higher Education Assistance Authority and are hereby appropriated.

(4) Funds unexpended at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year.

(5) Any interest earnings of the trust fund shall become part of the trust fund and shall not lapse to the general fund.

Section 6. KRS 164A.337 is amended to read as follows:

(1) The board is authorized to incorporate an organization pursuant to KRS Chapter 273 for the eleemosynary, charitable, and educational purposes of administering an endowment trust. The organization so created shall be an instrumentality of the Commonwealth, but shall possess no part of the sovereign powers of the Commonwealth. The corporation shall be created to qualify as a tax exempt organization pursuant to Section 501(c)(3) of the Internal Revenue Code.

(2) The endowment trust created pursuant to subsection (1) of this section shall solicit and accept gifts, grants, donations, bequests, or other endowments, including general fund appropriations from the Commonwealth and grants from any federal or other governmental agency, for the purposes of the endowment trust.

(3) The endowment trust shall provide *assistance under the Public Service Student Law School Loan Assistance Program under the provisions of Sections 1 to 5 under this Act and* student financial assistance benefits, including, but not limited to, grants, scholarships, or loans to pay higher education costs of members of the public, *including but not limited to those individuals* designated as beneficiaries of participation agreements under the Kentucky Educational Savings Plan Trust, who enroll in an institution of higher education in Kentucky*, and beneficiaries under a prepaid tuition contract with the Commonwealth Prepaid Tuition Trust Fund*.

(4) The board is authorized to transfer to the endowment trust, after its qualification under Section 501(c)(3) of the Internal Revenue Code, any funds or assets then held in the endowment fund initially established pursuant to KRS 164A.335.

(5) Any gifts, grants, or donations made by any governmental unit or any person, firm, partnership*,*[~~or~~] corporation*, or civic or nonprofit organization* to the endowment trust shall be a grant, gift, or donation for the accomplishment of a valid public, eleemosynary, charitable, and educational purpose.

(6) The endowment trust shall submit an annual audited report, in accordance with KRS 164A.365(1) and (2), to the program administrator not later than the fifteenth of each September.

Section 7. KRS 42.320 is amended to read as follows:

(1) There is hereby established the court cost distribution fund, which is created to provide a central account into which the court costs collected by all circuit clerks, under KRS 23A.205(1) and 24A.175(1), shall be paid.

(2) The fund shall be administered by the Finance and Administration Cabinet, which shall make monthly disbursements from the fund according to the following schedule:

(a) ***Forty-seven***~~[Forty-nine]~~ percent ***(47%)***~~[(49%)]~~ of each court cost shall be paid into the general fund;

(b) Ten and eight-tenths percent (10.8%) of each court cost, up to five million four hundred thousand dollars ($5,400,000), shall be paid into the State Treasury for the benefit and use of the Kentucky Local Correctional Facilities Construction Authority under KRS 441.605 to 441.695;

(c) Six and one-half percent (6.5%) of each court cost, up to three million two hundred fifty thousand dollars ($3,250,000), shall be paid into the spinal cord and head injury research trust fund created in KRS 211.504;

(d) Five and one-half percent (5.5%) of each court cost, up to two million seven hundred fifty thousand dollars ($2,750,000), shall be paid into the traumatic brain injury trust fund created in KRS 211.476;

(e) Five percent (5%) of each court cost, up to two million five hundred thousand dollars ($2,500,000), shall be paid into a trust and agency account with the Administrative Office of the Courts and is to be used by the circuit clerks to hire additional deputy clerks and to enhance deputy clerk salaries;

(f) Three and one-half percent (3.5%) of each court cost, up to one million seven hundred fifty thousand dollars ($1,750,000), shall be paid to a special trust and agency account that shall not lapse for the Department of Public Advocacy;

(g) Three and four-tenths percent (3.4%) of each court cost, up to one million seven hundred thousand dollars ($1,700,000), shall be paid into the crime victims' compensation fund created in KRS 346.185;

(h) Seven-tenths of one percent (0.7%) of each court cost, up to three hundred fifty thousand dollars ($350,000), shall be paid to the Justice Cabinet to defray the costs of conducting record checks on prospective firearms purchasers pursuant to the Brady Handgun Violence Prevention Act and for the collection, testing, and storing of DNA samples;

(i) Ten and one-tenth percent (10.1%) of each court cost, up to five million fifty thousand dollars ($5,050,000), deposited in the fund shall be paid to the county sheriff in the county from which the court cost was received;~~[and]~~

(j) Five and one-half percent (5.5%) of each court cost, up to two million seven hundred fifty thousand dollars ($2,750,000), deposited in the fund shall be paid to the county treasurer in the county from which the court cost was received and shall be used by the fiscal court in that county for the purposes of defraying the costs of operation of the county jail and the transportation of prisoners***; and***

(k) Two percent (2%) of each court cost, up to one million two hundred thousand dollars ($1,200,000) deposited in the fund shall be paid to the Public Service Student Law School Loan Assistance Program trust fund created in Section 5 of this Act.

(3) Any moneys remaining in the fund after the monthly disbursements in subsection (2) of this section shall be paid into the general fund.

(4) Any moneys collected above the prescribed amount shall be paid into the general fund.

HCR 120, A CONCURRENT RESOLUTION confirming the appointment of Bonnie Lash Freeman to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has appointed by Executive Order 2004-129 Bonnie Lash Freeman as a member of the Kentucky Board of Education representing the state at large for a term expiring April 14, 2008; and

WHEREAS, by letter dated January 30, 2004, the Governor has delivered Bonnie Lash Freeman's name for confirmation as a member of the board, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Bonnie Lash Freeman meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the appointment of Bonnie Lash Freeman to the Kentucky Board of Education for a term ending April 14, 2008.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Ernie Fletcher, Room 100, State Capitol, Frankfort, Kentucky 40601 and Bonnie Lash Freeman, 3617 Northwestern Parkway, Louisville, Kentucky 40212, in writing, of the General Assembly's action.

HCR 121, A CONCURRENT RESOLUTION confirming the appointment of David B. Rhodes to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has appointed by Executive Order 2004-129 David B. Rhodes as a member of the Kentucky Board of Education representing the state at large for a term expiring April 14, 2008; and

WHEREAS, by letter dated January 30, 2004, the Governor has delivered David B. Rhodes' name for confirmation as a member of the board, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that David B. Rhodes upon his resignation from the Montgomery County Board of Education will meet the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the appointment of David B. Rhodes to the Kentucky Board of Education for a term ending April 14, 2008.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Ernie Fletcher, Room 100, State Capitol, Frankfort, Kentucky 40601 and David B. Rhodes, 1308 Country Meadow Lane, Mount Sterling, Kentucky 40353, in writing, of the General Assembly's action.

HCR 122, A CONCURRENT RESOLUTION confirming the appointment of Janna P. Vice to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has appointed by Executive Order 2004-129 Janna P. Vice as a member of the Kentucky Board of Education representing the state at large for a term expiring April 14, 2008; and

WHEREAS, by letter dated January 30, 2004, the Governor has delivered Janna P. Vice's name for confirmation as a member of the board, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that Janna P. Vice meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the appointment of Janna P. Vice to the Kentucky Board of Education for a term ending April 14, 2008.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Ernie Fletcher, Room 100, State Capitol, Frankfort, Kentucky 40601 and Janna P. Vice, Ed.D., 3509 Old Kentucky Highway 52, Richmond, Kentucky 40475, in writing of the General Assembly's action.

HCR 123, A CONCURRENT RESOLUTION confirming the appointment of David L. Webb to the Kentucky Board of Education.

WHEREAS, pursuant to KRS 156.029, the Governor has appointed by Executive Order 2004-129 David L. Webb as a member of the Kentucky Board of Education representing the state at large for a term expiring April 14, 2008; and

WHEREAS, by letter dated January 30, 2004, the Governor has delivered David L. Webb's name for confirmation as a member of the board, as required by KRS 11.160; and

WHEREAS, the House of Representatives and the Senate find that David L. Webb meets the requirements established in KRS 156.029 and 156.040 for membership on the Kentucky Board of Education;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives and the Senate hereby confirm the appointment of David L. Webb to the Kentucky Board of Education for a term ending April 14, 2008.

Section 2. The Clerk of the House of Representatives, pursuant to KRS 11.160(2), shall notify Governor Ernie Fletcher, Room 100, State Capitol, Frankfort, Kentucky 40601 and David L. Webb, Post Office Box 545, Brownsville, Kentucky 42210, in writing, of the General Assembly's action.

HJR 129, A JOINT RESOLUTION relating to civic literacy.

WHEREAS, civic literacy encourages young people to be thoughtful and productive members of their communities and future leaders of the Commonwealth; and

WHEREAS, it is crucial to the future health of our representative democracy that all young people be knowledgeable about democratic principles and practices, engaged in their communities and in politics, and committed to the public good; and

WHEREAS, on the National Assessment of Educational Progress in 1998, 75 percent of students scored at "basic" or "below basic" levels; and

WHEREAS, according to a 2000 study by The Center for Information and Research on Civic Learning and Engagement, only 39 percent of Kentucky's youth aged 18 to 24 voted; and

WHEREAS, according to "The Civic and Political Health of the Nation: A Generational Portrait" nearly one-half of 15 to 25 year olds indicate civic education increases their interest and participation in civic affairs; and

WHEREAS, primary, elementary, and secondary schools are virtually the only means to reach all children in our state; and

WHEREAS, our public school system was founded on the basic tenets that included civic literacy as necessary to lead to a more prosperous future; and

WHEREAS, 40 state constitutions discuss the importance of civic literacy, and 13 of those states fully recognize civic literacy as a fundamental principle in their school systems; and

WHEREAS, the Northern Kentucky University Scripps Howard Center for Civic Engagement has been established to research and implement civic engagement programs for the future quality of life for Kentuckians; and

WHEREAS, individuals who have a clear understanding of the rights and responsibilities of citizenship in a representative democracy are more likely to exercise those rights and responsibilities to be competent and responsible citizens; and

WHEREAS, the need for civic literacy in our state is crucial to the long term social and political health of this Commonwealth;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Office of the Secretary of State, with the assistance of the Department of Education and the Administrative Office of the Courts, is urged to establish a committee to convene a Summit for Civic Literacy at Northern Kentucky University with the goals of evaluating the current voluntary and required civic literacy programs within Kentucky schools, determining a strategy for enhancing long-term civic education within the Commonwealth, and recommending a plan for implementing a civic education program before the 2005 Regular Session of the General Assembly.

Section 2. If the committee is established, the make-up of this committee shall include a diverse range of student, teacher, and administrator representatives from K-16 education, media, civic organizations, and elected officials, and shall be facilitated by the Northern Kentucky University Scripps Howard Center for Civic Engagement.

Section 3. If the committee is established, the committee shall provide a report with its findings and recommendations for future action to the Office of the Secretary of State no later than December 1, 2004.

The Committee Substitute to **HJR 129** is as follows:

HJR 129, A JOINT RESOLUTION relating to civic literacy.

WHEREAS, civic literacy encourages young people to be thoughtful and productive members of their communities and future leaders of the Commonwealth; and

WHEREAS, it is crucial to the future health of our representative democracy that all young people be knowledgeable about democratic principles and practices, engaged in their communities and in politics, and committed to the public good; and

WHEREAS, on the National Assessment of Educational Progress in 1998, 75 percent of students scored at "basic" or "below basic" levels; and

WHEREAS, according to a 2000 study by The Center for Information and Research on Civic Learning and Engagement, only 39 percent of Kentucky's youth aged 18 to 24 voted; and

WHEREAS, according to "The Civic and Political Health of the Nation: A Generational Portrait" nearly one-half of 15 to 25 year olds indicate civic education increases their interest and participation in civic affairs; and

WHEREAS, the Northern Kentucky University Scripps Howard Center for Civic Engagement has been established to research and implement civic engagement programs for the future quality of life for Kentuckians; and

WHEREAS, individuals who have a clear understanding of the rights and responsibilities of citizenship in a representative democracy are more likely to exercise those rights and responsibilities to be competent and responsible citizens; and

WHEREAS, the need for civic literacy in our state is crucial to the long term social and political health of this Commonwealth;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Office of the Secretary of State, with the assistance of the Department of Education and the Administrative Office of the Courts, is urged to establish a committee to convene a Summit for Civic Literacy at Northern Kentucky University with the goal of determining a strategy for enhancing long-term civic engagement and literacy within the Commonwealth, and recommending a plan for improving a civic engagement and literacy before the 2005 Regular Session of the General Assembly.

Section 2. If the committee is established, the make-up of this committee shall include a diverse range of student, teacher, and administrator representatives from K-16 education, media, civic organizations, and elected officials, and shall be facilitated by the Northern Kentucky University Scripps Howard Center for Civic Engagement.

Section 3. If the committee is established, the committee shall provide a report with its findings and recommendations for future action to the Office of the Secretary of State no later than December 1, 2004.

HCR 134, A CONCURRENT RESOLUTION directing the Program Review and Investigations Committee to study administrative costs in local school districts.

WHEREAS, providing an efficient system of public schools is the responsibility of the General Assembly; and

WHEREAS, the Kentucky Supreme Court in *Rose v. Council for Better Education, Inc.* directed that the system be monitored by the General Assembly to assure that there is no waste, no duplication, and no mismanagement; and

WHEREAS, it is critical that programs and expenditures be continuously reviewed to assure that the system is efficient and not over-burdened by administrative costs that take funds from student instruction; and

WHEREAS, there are 176 school districts in 120 counties, many of which are small and in close geographic proximity that could possibly share administrative costs to acquire more efficiency;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Program Review and Investigations Committee shall conduct an analysis and comparison of administrative personnel costs in local school districts including, but not limited to, the salaries, benefits and other costs of the superintendent and staff, the transportation director and staff, the food service supervisor and staff, and others that hold positions considered to be for administrative purposes rather than instructional purposes. The analysis shall include the purchase of similar services provided to the district through contract or other business arrangements. The study shall compare districts by student enrollment size and determine if neighboring school districts could be efficient if they shared staff.

Section 2. The Program Review and Investigations Committee shall report its findings and recommendations to the Legislative Research Commission by November 15, 2004.

Section 3. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee Amendment No. 1 to **HCR 134** is as follows:

HCR 134, On page 1, line 3 by inserting "for the 2002-2003 school year" in front of "including".

HJR 135, A JOINT RESOLUTION directing the Kentucky Higher Education Assistance Authority, with the assistance of the Council on Postsecondary Education and the Kentucky Department of Education, to conduct an analysis of data relating to specific elements of the Kentucky Educational Excellence Scholarship Program and report the results with policy options and recommendations for legislative action to the General Assembly.

WHEREAS, House Concurrent Resolution 141 of the 2003 Regular Session of the Kentucky General Assembly directed the Interim Joint Committee on Education to study the Kentucky Educational Excellence Scholarship (KEES) program and make recommendations to the 2004 Regular Session of the General Assembly based on the results of the study; and

WHEREAS, on December 1, 2003, in compliance with HCR 141, the Interim Joint Committee on Education adopted Legislative Research Commission Research Report No. 317, "A Study of the Kentucky Educational Excellence Scholarship Program," developed by the Subcommittee on Postsecondary Education during the 2003 Interim; and

WHEREAS, two of the recommendations in the study were to "permit high school students to use projected KEES awards to pay for dual credit courses" and "permit high school students to use projected KEES awards to pay for the cost of taking Advanced Placement exams"; and

WHEREAS, the fiscal impact of implementation of the recommendations--based in part on the number of students who might avail themselves of KEES funding to pay for dual credit courses or Advanced Placement examinations during high school who will attend college outside of Kentucky, and in part on the manner in which such a change would be administered--is currently unknown and has not yet been estimated; and

WHEREAS, current law requires the distribution of a KEES award to occur based on an individual's status as a full- or half-time student during an academic term rather than the number of credit hours for which a student is enrolled, which may reflect a disjunction between the KEES program and the enrollment patterns of Kentucky postsecondary students; and

WHEREAS, there are numerous policy options regarding the manner in which the program can best be implemented to maximize the benefit to students while limiting the fiscal impact to the program;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky Higher Education Assistance Authority shall, with the assistance of the Council on Postsecondary Education and the Kentucky Department of Education, conduct an analysis regarding the potential use of KEES awards by high school students to pay for dual credit courses and the cost of taking advanced placement examinations. The analysis shall include, but not be limited to, determining the number of students who participate currently in dual credit and dual enrollment structures, the number of those students who attend college outside of Kentucky, an estimate of the number of students who might use KEES awards to pay for dual credit or dual enrollment, the development of policy options regarding implementation of these study recommendations, and an estimate of the fiscal impact to the KEES program of those options.

Section 2. The analysis shall also include information regarding student enrollment patterns and the potential effects of changing the KEES program so that funds are distributed based on the number of credit hours for which a student is enrolled rather than on an individual's status as a full- or half-time student during an academic term.

Section 3. The Kentucky Higher Education Assistance Authority shall report the results of the analysis, including a presentation and discussion of policy options and recommendations for legislative action, to the Interim Joint Committee on Education by October 1, 2004.

Section 4. The Clerk of the House of Representatives shall send a copy of this Resolution to Dr. Joseph McCormick, President, Kentucky Higher Education Assistance Authority, P.O. Box 798, Frankfort, Kentucky 40602-0798; Mr. Thomas Layzell, President, Council on Postsecondary Education, 1024 Capitol Center Drive, Suite 320, Frankfort, Kentucky 40601; and Mr. Gene Wilhoit, Commissioner of Education, Kentucky Department of Education, 500 Mero Street, Frankfort, Kentucky 40601.

The Committee Substitute to **HJR 135** is as follows:

HJR 135, A JOINT RESOLUTION directing the Kentucky Higher Education Assistance Authority, with the assistance of the Council on Postsecondary Education and the Kentucky Department of Education, to conduct an analysis of data relating to specific elements of the Kentucky Educational Excellence Scholarship Program and report the results with policy options and recommendations for legislative action to the General Assembly.

WHEREAS, House Concurrent Resolution 141 of the 2003 Regular Session of the Kentucky General Assembly directed the Interim Joint Committee on Education to study the Kentucky Educational Excellence Scholarship (KEES) program and make recommendations to the 2004 Regular Session of the General Assembly based on the results of the study; and

WHEREAS, on December 1, 2003, in compliance with HCR 141, the Interim Joint Committee on Education adopted Legislative Research Commission Research Report No. 317, "A Study of the Kentucky Educational Excellence Scholarship Program," developed by the Subcommittee on Postsecondary Education during the 2003 Interim; and

WHEREAS, the recommendations in the study included to "permit high school students to use projected KEES awards to pay for dual credit courses," to "permit high school students to use projected KEES awards to pay for the cost of taking Advanced Placement exams," and to "use a student's numeric grade score average rather than grade point average to determine annual KEES base amount"; and

WHEREAS, the fiscal impact of implementation of the recommendations--based in part on the number of students who might avail themselves of KEES funding to pay for dual credit courses or Advanced Placement examinations during high school who will attend college outside of Kentucky, in part on the amount provided for each numeric grade score average and in part on the manner in which the changes would be administered--is currently unknown and has not yet been estimated; and

WHEREAS, current law requires the distribution of a KEES award to occur based on an individual's status as a full- or half-time student during an academic term rather than the number of credit hours for which a student is enrolled, which may reflect a disjunction between the KEES program and the enrollment patterns of Kentucky postsecondary students; and

WHEREAS, there are numerous policy options regarding the manner in which the program can best be implemented to maximize the benefit to students while limiting the fiscal impact to the program;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky Higher Education Assistance Authority shall, with the assistance of the Council on Postsecondary Education and the Kentucky Department of Education, conduct an analysis regarding the KEES program and the effect of implementation of recommendations in the KEES study.

Section 2. The analysis shall address the potential use of KEES awards by high school students to pay for dual credit courses and the cost of taking advanced placement examinations. The analysis shall include, but not be limited to, determining the number of students who participate currently in dual credit and dual enrollment structures, the number of those students who attend college outside of Kentucky, an estimate of the number of students who might use KEES awards to pay for dual credit or dual enrollment, the development of policy options regarding implementation of these study recommendations, and an estimate of the fiscal impact to the KEES program of those options.

Section 3. The analysis shall also address the fiscal impact to students and to the KEES program as a whole of determining KEES base amounts using numeric grade score averages rather than grade point averages.

Section 4. The analysis shall also include information regarding student enrollment patterns and the potential effects of changing the KEES program so that funds are distributed based on the number of credit hours for which a student is enrolled rather than on an individual's status as a full- or half-time student during an academic term.

Section 5. The Kentucky Higher Education Assistance Authority shall report the results of the analysis, including a presentation and discussion of policy options and recommendations for legislative action, to the Interim Joint Committee on Education by October 1, 2004.

Section 6. The Clerk of the House of Representatives shall send a copy of this Resolution to Dr. Joseph McCormick, President, Kentucky Higher Education Assistance Authority, P.O. Box 798, Frankfort, Kentucky 40602-0798; Mr. Thomas Layzell, President, Council on Postsecondary Education, 1024 Capitol Center Drive, Suite 320, Frankfort, Kentucky 40601; and Mr. Gene Wilhoit, Commissioner of Education, Kentucky Department of Education, 500 Mero Street, Frankfort, Kentucky 40601.

The Committee on Banking and Insurance reported **HB 380**, with Committee Substitute attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 380, AN ACT relating to annuities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.15-315 is amended to read as follows:

(1) This section shall be known as the "Standard Nonforfeiture Law for Individual Deferred Annuities."

(2) This section shall not apply to any reinsurance group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this state through an agent or other representative of the insurer issuing the contract.

(3) In the case of contracts issued on or after the operative date of this section as defined in subsection ***(15)***[~~(12)~~] of this section, no contract of annuity, except as stated in subsection (2) of this section, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract***:***[~~.~~]

(a) That upon cessation of payment of considerations under a contract, ***or upon the written request of the contract owner,*** the insurer ***shall***[~~will~~] grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections ***(8), (9), (10), (11), and (13)***[~~(5), (6), (7), (8) and (10)~~] of this section***;***[~~.~~]

(b) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the insurer ***shall***[~~will~~] pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections ***(8), (9), (10), (11), and (13)***[~~(5), (6), (8) and (10)~~] of this section. The insurer shall reserve the right to defer the payment of such cash surrender benefit for a period ***not to exceed***[~~of~~] six (6) months after demand therefor with surrender of the contract ***after making written request and receiving written approval of the commissioner. The request shall address the necessity and equitability to all policyholders of the deferral;***[~~.~~]

(c) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits***; and***[~~.~~]

(d) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the insurer to the contract, any indebtedness to the insurer on the contract or any prior withdrawals from or partial surrenders of the contract.

Notwithstanding the requirements of this subsection, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two (2) full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than twenty dollars ($20) monthly, the insurer may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

(4) ***Prior to July 2, 2006, an insurer may elect to comply with the provisions of this subsection or the provisions of subsection (5) of this section. On and after July 1, 2006, all insurers shall comply with the provisions of subsection (5) of this section.*** The minimum values as specified in subsections ***(8), (9), (10), (11), and (13)***[~~(5), (6), (7), (8) and (10)~~] of this section of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

(a) [~~With respect to contracts providing for flexible considerations,~~]The minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at ***rates***[~~a rate~~] of interest ***as indicated in paragraph (c) of this subsection***[~~of three percent (3%) per annum of percentages~~] of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of

1. Any prior withdrawals from or partial surrenders of the contract accumulated at ***rates***[~~a rate~~] of interest ***as indicated in subsection (5) of this section***[~~of three percent (3%) per annum~~];[~~ and~~]

2. ***An annual contract charge of fifty dollars ($50) accumulated at rates of interest as indicated in subsection (5) of this section; and***

3. The amount of any indebtedness to the insurer on the contract, including interest due and accrued;

[~~and increased by any existing additional amounts credited by the insurer to the contract.~~]

(b) The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount[~~ not less than zero and shall be~~] equal to ***eighty-seven and one-half percent (87.5%) of*** the[~~ corresponding~~] gross consideration credited to the contract during that contract year[~~ less an annual contract charge of thirty dollars ($30) and less a collection charge of one dollar and twenty-five cents ($1.25) per consideration credited to the contract during that contract year. The percentages of net considerations shall be sixty-five percent (65%) of the net consideration for the first contract year and eighty-seven and one-half percent (87.5%) of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five percent (65%) of the portion of the total net consideration for any renewal contract year which exceeds by not more than two (2) times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent (65%)~~].

(c)[~~(b)~~]Notwithstanding any other provision of this subsection, for any contract issued on or after July 1, 2003, and before July 1, ***2006***[~~2005~~], the interest rate at which net considerations, prior withdrawals, and partial surrenders shall be accumulated for the purpose of determining nonforfeiture amounts shall be no less than one and one-half percent (1.5%) per annum.

[~~(c) With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two (2) exceptions:~~

~~1. The portion of the net consideration for the first contract year to be accumulated shall be the sum of sixty-five percent (65%) of the net consideration for the first contract year plus twenty-two and one-half percent (22.5%) of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years.~~

~~2. The annual contract charge shall be the lesser of,~~

~~a. Thirty dollars ($30), or~~

~~b. Ten percent (10%) of the gross annual consideration.~~

~~(d) With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to ninety percent (90%) and the net consideration shall be the gross consideration less a contract charge of seventy-five dollars ($75).~~]

(5) ***The interest rate used in determining minimum nonforfeiture amounts shall be an annual rate of interest determined as the lesser of three percent (3%) per annum and the following, which shall be specified in the contract if the interest rate will be reset:***

(a) The five (5) year constant maturity treasury rate reported by the Federal Reserve as of a date or average over a period rounded to the nearest one-twentieth of one percent (0.05%), specified in the contract no longer than fifteen (15) months prior to the contract issue date or redetermination date under paragraph (d) of this subsection;

(b) Reduced by one hundred and twenty-five (125) basis points;

(c) Where the resulting interest rate is not less than one percent (1%); and

(d) The interest rate shall apply for an initial period and may be redetermined for additional periods. The redetermination date basis and period, if any, shall be stated in the contract. The basis is the date or average

over a specified period that produces the value of the five (5) year constant maturity treasury rate to be used at each redetermination date.

(6) During the period or term that a contract provides substantive participation in an equity indexed benefit, it may increase the reduction described in paragraph (b) of subsection (5) of this section up to an additional one hundred (100) basis points to reflect the value of the equity index benefit. The present value at the contract issue date, and at each redetermination date thereafter of the additional reduction shall not exceed the market value of the benefit. The commissioner may require a demonstration that the present value of the additional reduction does not exceed the market value of the benefit. Lacking such demonstration that is acceptable to the commissioner, the commissioner may disallow or limit the additional reduction.

(7) The commissioner may promulgate administrative regulations in accordance with KRS Chapter 13A implementing the provisions of this section and to provide for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity index benefit and for other contracts that the commissioner determines adjustments are justified.

(8) Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

(9)[~~(6)~~] For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than one percent (1%) higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the insurer on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the insurer to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

(10)[~~(7)~~] For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the insurer to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the basis of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

(11)[~~(8)~~] For the purpose of determining the benefits calculated under subsections *(9)*[~~(6)~~] and *(10)*[~~(7)~~] of this section, in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

(12)[~~(9)~~] Any contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

(13)[~~(10)~~] Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

(14)[~~(11)~~] For any contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections ***(8), (9), (10), (11), and (13)***[~~(5), (6), (7), (8), and (10)~~] of this section, additional benefits payable

(a) In the event of total and permanent disability,

(b) As reversionary annuity or deferred reversionary annuity benefits, or

(c) As other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

(15)[~~(12)~~] After June 17, 1978, any insurer may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date before June 17, 1980. After the filing of such notice, then upon such specified date, this section shall become operative with respect to annuity contracts thereafter issued by such insurer. If an insurer makes no such election, the operative date of this section for such insurer shall be June 17, 1980.

The Committee Substitute to **HB 380** is as follows:

HB 380, AN ACT relating to annuities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.15-315 is amended to read as follows:

(1) This section shall be known as the "Standard Nonforfeiture Law for Individual Deferred Annuities."

(2) This section shall not apply to any reinsurance group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this state through an agent or other representative of the insurer issuing the contract.

(3) In the case of contracts issued on or after the operative date of this section as defined in subsection (12) of this section, no contract of annuity, except as stated in subsection (2) of this section, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract.

(a) That upon cessation of payment of considerations under a contract, the insurer will grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections (5), (6), (7), (8) and (10) of this section.

(b) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the insurer will pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections (5), (6), (8) and (10) of this section. The insurer shall reserve the right to defer the payment of such cash surrender benefit for a period of six (6) months after demand therefor with surrender of the contract.

(c) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of such benefits.

(d) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which such benefits are altered by the existence of any additional amounts credited by the insurer to the contract, any indebtedness to the insurer on the contract or any prior withdrawals from or partial surrenders of the contract.

Notwithstanding the requirements of this subsection, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two (2) full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to such period would be less than twenty dollars ($20) monthly, the insurer may at its option terminate such contract by payment in cash of the then present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by such payment shall be relieved of any further obligation under such contract.

(4) The minimum values as specified in subsections (5), (6), (7), (8) and (10) of this section of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

(a) With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at a rate of interest of three percent (3%) per annum of percentages of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of

1. Any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of three

percent (3%) per annum; and

2. The amount of any indebtedness to the insurer on the contract, including interest due and accrued;

and increased by any existing additional amounts credited by the insurer to the contract. The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross consideration credited to the contract during that contract year less an annual contract charge of thirty dollars ($30) and less a collection charge of one dollar and twenty-five cents ($1.25) per consideration credited to the contract during that contract year. The percentages of net considerations shall be sixty-five percent (65%) of the net consideration for the first contract year and eighty-seven and one-half percent (87.5%) of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be sixty-five percent (65%) of the portion of the total net consideration for any renewal contract year which exceeds by not more than two (2) times the sum of those portions of the net considerations in all prior contract years for which the percentage was sixty-five percent (65%).

(b) Notwithstanding any other provision of this subsection, for any contract issued on or after July 1, 2003, and before July 1, ***2006***~~[2005]~~, the interest rate at which net considerations, prior withdrawals, and partial surrenders shall be accumulated for the purpose of determining nonforfeiture amounts shall be no less than one and one-half percent (1.5%) per annum.

(c) With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two (2) exceptions:

1. The portion of the net consideration for the first contract year to be accumulated shall be the sum of sixty-five percent (65%) of the net consideration for the first contract year plus twenty-two and one-half percent (22.5%) of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years.

2. The annual contract charge shall be the lesser of,

a. Thirty dollars ($30), or

b. Ten percent (10%) of the gross annual consideration.

(d) With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to ninety percent (90%) and the net consideration shall be the gross consideration less a contract charge of seventy-five dollars ($75).

(5) Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. Such present value shall be computed using the mortality table, if any, and the interest rate specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

(6) For contracts which provide cash surrender benefits, such cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, such present value being calculated on the basis of an interest rate not more than one percent (1%) higher than the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, decreased by the amount of any indebtedness to the insurer on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the insurer to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under such contracts shall be at least equal to the cash surrender benefit.

(7) For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, such present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine such maturity value, and increased by any existing additional amounts credited by the insurer to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, such present values shall be calculated on the basis of such interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

(8) For the purpose of determining the benefits calculated under subsections (6) and (7) of this section, in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth

anniversary of the contract, whichever is later.

(9) Any contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

(10) Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

(11) For any contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections (5), (6), (7), (8), and (10) of this section, additional benefits payable

(a) In the event of total and permanent disability,

(b) As reversionary annuity or deferred reversionary annuity benefits, or

(c) As other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits,

shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of such additional benefits shall not be required in any paid-up benefits, unless such additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

(12) ***(a)*** After ***August 1, 2004***~~[June 17, 1978]~~, any insurer may file with the commissioner a written notice of its election to ***apply***~~[comply with]~~ the provisions of the provisions of ***Section 2 of this Act on a contract-form by contract-form basis to annuity contracts issued by the insurer during the period from the date of the election through June 30, 2006***~~[this section after a specified date before June 17, 1980. After the filing of such notice, then upon such specified date, this section shall become operative with respect to annuity contracts thereafter issued by such insurer. If an insurer makes no such election, the operative date of this section for such insurer shall be June 17, 1980]~~.

(b) In all other instances, insurers shall apply the provisions of Section 1 of this Act to annuity contracts issued through June 30, 2006.

(c) Insurers shall apply the provisions of Section 2 of this Act to all annuity contracts issued on or after July 1, 2006.

SECTION 2. A NEW SECTION OF SUBTITLE 15 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) This section shall be known as the "Standard Nonforfeiture Law for Individual Deferred Annuities of 2004."

(2) This section shall not apply to any reinsurance group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer, including a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as now or hereafter amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this state through an agent or other representative of the insurer issuing the contract.

(3) In the case of contracts issued on or after July 1, 2006, no contract of annuity, except as provided in subsection (2) of this section, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract:

(a) That upon cessation of payment of considerations under a contract, or upon the written request of the contract owner, the insurer shall grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections (8), (9), (10), (11), and (13) of this section;

(b) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the insurer shall pay in lieu of any paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections (8), (9), (10), (11), and (13) of this section. The insurer may reserve the right to defer the payment of this cash surrender benefit for a period not to exceed six (6) months after demand therefor with surrender of the contract after making written request and receiving written approval of the commissioner. The request shall address the necessity and equitability to all policyholders of the deferral;

(c) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid-up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to

determine the amounts of such benefits; and

(d) A statement that any paid-up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which these benefits are altered by the existence of any additional amounts credited by the insurer to the contract, any indebtedness to the insurer on the contract, or any prior withdrawals from or partial surrenders of the contract.

Notwithstanding the requirements of this subsection, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two (2) full years and the portion of the paid-up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to that period would be less than twenty dollars ($20) monthly, the insurer may at its option terminate the contract by payment in cash of the then-present value of such portion of the paid-up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid-up annuity benefit, and by this payment shall be relieved of any further obligation under such contract.

(4) The minimum values as specified in subsections (8), (9), (10), (11), and (13) of this section of any paid-up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

(a) The minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to that time at rates of interest as indicated in subsection (5) of this section of the net considerations, as defined in paragraph (6) of this subsection, paid prior to that time, decreased by the sum of:

1. Any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest as indicated in subsection (5) of this section;

2. An annual contract charge of fifty dollars ($50) accumulated at rates of interest as indicated in subsection (5) of this section; and

3. The amount of any indebtedness to the insurer on the contract, including interest due and accrued.

(b) The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount equal to eighty-seven and one-half percent (87.5%) of gross considerations credited to the contract during that contract year.

(5) The interest rate used in determining minimum nonforfeiture amounts shall be an annual rate of interest determined as the lesser of three percent (3%) per annum and the following, which shall be specified in the contract if the interest rate will be reset:

(a) The five (5) year Constant Maturity Treasury Rate reported by the Federal Reserve as of a date or average over a period rounded to the nearest one-twentieth of one percent (0.05%), specified in the contract no longer than fifteen (15) months prior to the contract issue date or redetermination date under paragraph (d) of this subsection;

(b) Reduced by one hundred twenty-five (125) basis points;

(c) Where the resulting interest rate is not less than one percent (1%); and

(d) The interest rate shall apply for an initial period and may be redetermined for additional periods. The redetermination date basis and period, if any, shall be stated in the contract. The basis is the date or average over a specified period that produces the value of the five (5) year Constant Maturity Treasury Rate to be used at each redetermination date.

(6) During the period or term that a contract provides substantive participation in an equity indexed benefit, it may increase the reduction described in subsection (5)(b) of this section up to an additional one hundred (100) basis points to reflect the value of the equity index benefit. The present value at the contract issue date and at each redetermination date thereafter of the additional reduction shall not exceed the market value of the benefit. The commissioner may require a demonstration that the present value of the additional reduction does not exceed the market value of the benefit. Lacking such demonstration that is acceptable to the commissioner, the commissioner may disallow or limit the additional reduction.

(7) The commissioner may promulgate administrative regulations in accordance with KRS Chapter 13A implementing the provisions of subsection (6) of this section and to provide for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity index benefit and for other contracts for which the commissioner determines adjustments are justified.

(8) Any paid-up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. This present value shall be computed using the mortality table, if any, and the interest rates specified in the contract for determining the minimum paid-up annuity benefits guaranteed in the contract.

(9) For contracts which provide cash surrender benefits, the cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid-up annuity

benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, the present value being calculated on the basis of an interest rate not more than one percent (1%) higher than the interest rate specified in the contract for accumulating the net considerations to determine the maturity value, decreased by the amount of any indebtedness to the insurer on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the insurer to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under the contracts shall be at least equal to the cash surrender benefit.

(10) For contracts which do not provide cash surrender benefits, the present value of any paid-up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid-up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid-up annuity, the present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine the maturity value, and increased by any existing additional amounts credited by the insurer to the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, the present values shall be calculated on the basis of the interest rate and the mortality table specified in the contract for determining the maturity value of the paid-up annuity benefit. However, in no event shall the present value of a paid-up annuity benefit be less than the minimum nonforfeiture amount at that time.

(11) For the purpose of determining the benefits calculated under subsections (9) and (10) of this section, in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

(12) Any contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that such benefits are not provided.

(13) Any paid-up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

(14) For any contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subsections (8), (9), (10), (11), and (13) of this section, additional benefits payable:

(a) In the event of total and permanent disability;

(b) As reversionary annuity or deferred reversionary annuity benefits; or

(c) As other policy benefits additional to life insurance, endowment and annuity benefits, and considerations for all such additional benefits;

shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits that may be required by this section. The inclusion of these additional benefits shall not be required in any paid-up benefits, unless these additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender and death benefits.

(15) (a) After August 1, 2004, any insurer may file with the commissioner a written notice of its election to apply the provisions of this section on a contract-form by contract-form basis to annuity contracts issued by the insurer during the period from the date of the election through June 30, 2006.

(b) Insurers shall apply the provisions of this section to annuity contracts issued on or after July 1, 2006.

The Committee on Licensing and Occupations reported **HB 466,** with Committee Substitute attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 466, AN ACT relating to alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

(1) A supplemental bar license shall authorize the licensee to sell or serve distilled spirits or wine by the drink at retail for consumption on the licensed premises from an additional location other than the main bar of an existing retail drink

licensed premises. A supplemental bar license is a nonquota license and shall not be transferable to other premises.

(2) A supplemental bar license shall not be issued unless:

- ***(a) The licensee applies to the state distilled spirits administrator and meets all requirements for obtaining a supplemental bar license; and***
- ***(b) The licensee pays the applicable license fee prescribed in KRS 243.030(8), (17), (23), (29), (35), or (43).***

(3) A licensee authorized to sell and serve malt beverages may sell and serve malt beverages at any location on the licensed premises without obtaining a supplemental bar license.

Section 2. KRS 241.010 is amended to read as follows:

As used in this chapter and in KRS Chapters 242 and 243, unless the context requires otherwise:

(1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process it is produced.

(2) "Alcoholic beverage" means every liquid or solid, whether patented or not, containing alcohol in an amount in excess of more than one percent (1%) of alcohol by volume, which is fit for beverage purposes. It includes every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. It does not include the following products:

- (a) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary, or the American Institute of Homeopathy;
- (b) Patented, patent, and proprietary medicines;
- (c) Toilet, medicinal, and antiseptic preparations and solutions;
- (d) Flavoring extracts and syrups;
- (e) Denatured alcohol or denatured rum;
- (f) Vinegar and preserved sweet cider;
- (g) Wine for sacramental purposes;
- (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external use; and
- (i) Malt beverages, containing not more than three and two-tenths percent (3.2%) of alcohol by weight, in territory that has voted to allow the sale thereof.

(3) "Board" means the State Alcoholic Beverage Control Board created by KRS 241.030.

(4) "Bottle" means any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail.

(5) "Brewer" means any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either by himself or by his agent.

(6) "Brewery" means any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards, and storerooms connected with the premises; or where any part of the process of the manufacture of malt beverages is carried on; or where any apparatus connected with manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept.

(7) "Building containing licensed premises" means the licensed premises themselves and includes the land, tract of land, or parking lot in which the premises are contained, and any part of any building connected by direct access or by an entrance which is under the ownership or control of the licensee by lease holdings or ownership.

(8) "Cabinet" means the Revenue Cabinet unless the context requires otherwise.

(9) ***"Caterer" means a corporation, partnership, or individual that operates the business of a food service professional by preparing food and alcoholic beverages in a licensed and inspected commissary, transporting the food and alcoholic beverages to the caterer's designated and inspected banquet hall or to a location selected by the customer, and serving the food and alcoholic beverages to the customer's guests.***

(10) "Charitable organization" means a nonprofit entity recognized as exempt from federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec. 501(c)) or any organization having been established and continuously operating within the Commonwealth of Kentucky for charitable purposes for three (3) years and which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational, literary, civic, fraternal, or patriotic purposes.

(11)[~~(10)~~] "Cider" means any fermented fruit-based beverage containing more than one-tenth of one percent (0.1%) alcohol by volume and includes hard cider and perry cider.

(12)[~~(11)~~] "City administrator" means city alcoholic beverage control administrator.

(13)[~~(12)~~] "Commissioner" means the commissioner of alcoholic beverage control.

(14)[~~(13)~~] "Convention center" means any facility which, in its usual and customary business, provides seating for a minimum of one thousand (1,000) people and offers convention facilities and related services for seminars, training and educational purposes, trade association meetings, conventions, or civic and community events or for plays, theatrical productions, or

cultural exhibitions.

(15)[~~(14)~~] "Convicted" and "conviction" means a finding of guilt resulting from a plea of guilty, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment.

(16)[~~(15)~~] "County administrator" means county alcoholic beverage control administrator.

(17)[~~(16)~~] "Department" means the Department of Alcoholic Beverage Control.

(18)[~~(17)~~] "Distilled spirits" or "spirits" means any product capable of being consumed by a human being which contains alcohol in excess of the amount permitted by KRS Chapter 242 obtained by distilling, mixed with water or other substances in solution, except wine, hard cider, and malt beverages.

(19)[~~(18)~~] "Distiller" means any person who is engaged in the business of manufacturing distilled spirits at any distillery in the state and is registered in the Office of the Collector of Internal Revenue for the United States at Louisville, Kentucky.

(20)[~~(19)~~] "Distillery" means any place or premises where distilled spirits are manufactured for sale, and which are registered in the office of any collector of internal revenue for the United States. It includes any United States government bonded warehouse.

(21)[~~(20)~~] "Distributor" means any person who distributes malt beverages for the purpose of being sold at retail.

(22)[~~(21)~~] "Dry territory" means a county, city, district, or precinct in which a majority of voters have voted in favor of prohibition.

(23)[~~(22)~~] "Farm winery" means a winery located on a Kentucky farm with a producing vineyard, orchard, or similar growing area, manufacturing and bottling wines in an amount not to exceed twenty-five thousand (25,000) gallons per year.

(24)[~~(23)~~] "Election" means:

(a) An election held for the purpose of taking the sense of the people as to the application or discontinuance of alcoholic beverage sales under KRS Chapter 242; or

(b) Any other election not pertaining to alcohol.

(25)[~~(24)~~] "Field representative" means any employee or agent of the department who is regularly employed and whose primary function is to travel from place to place for the purpose of visiting taxpayers, and any employee or agent of the department who is assigned, temporarily or permanently, by the commissioner to duty outside the main office of the department at Frankfort, in connection with the administration of alcoholic beverage statutes.

(26)[~~(25)~~] "License" means any license issued pursuant to KRS 243.020 to 243.670.

(27)[~~(26)~~] "Licensee" means any person to whom a license has been issued, pursuant to KRS 243.020 to 243.670.

(28) "Limited restaurant" means a facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross income from the sale of food, which maintains a minimum seating capacity of one hundred (100) persons for dining, and which is located in a territory where prohibition is no longer in effect under KRS 242.185(6).

(29)[~~(27)~~] "Malt beverage" means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and having an alcoholic content greater than that permitted under subsection (2)(i) of this section.

(30)[~~(28)~~] "Manufacture" means distill, rectify, brew, bottle, and operate a winery.

(31)[~~(29)~~] "Manufacturer" means a vintner, distiller, rectifier, or brewer, and any other person engaged in the production or bottling of alcoholic beverages.

(32) "Minor" means any person who is not twenty-one (21) years of age or older.

(33)[~~(30)~~] "Premises" means the land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on. "Premises" shall not include as a single unit two (2) or more separate businesses of one (1) owner on the same lot or tract of land, in the same or in different buildings if physical and permanent separation of the premises is maintained, excluding employee access by keyed entry and emergency exits equipped with crash bars, and each has a separate public entrance accessible directly from the sidewalk or parking lot. Any licensee holding an alcoholic beverage license on July 15, 1998 shall not, by reason of this subsection, be ineligible to continue to hold his or her license or obtain a renewal, of the license.

(34)[~~(31)~~] "Prohibition" means the application of KRS 242.190 to 242.430 to a territory.

(35)[~~(32)~~] "Rectifier" means any person who rectifies, purifies, or refines distilled spirits or wine by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying, or refining distilled spirits by mixing alcoholic beverages with any materials, manufactures any imitations of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name.

(36)[~~(33)~~] "Repackaging" means the placing of alcoholic beverages in any retail container irrespective of the material from which the container is made.

(37)[~~(34)~~] "Restaurant" means a facility where the usual and customary business is the serving of meals to consumers***,***[~~ and~~] that has a bona fide kitchen facility***, and that receives at least fifty percent (50%) of its gross receipts from the sale of***

food.

(38)[~~(35)~~] "Retail container" means any bottle, can, barrel, or other container which, without a separable intermediate container, holds alcoholic beverages and is suitable and destined for sale to a retail outlet, whether it is suitable for delivery to the consumer or not.

(39)[~~(36)~~] "Retail outlet" means retailer, hotel, motel, restaurant, railroad dining car, club, and any facility where alcoholic beverages are sold directly to the consumers.

(40)[~~(37)~~] "Retail sale" means any sale where delivery is made in Kentucky to any consumers.

(41)[~~(38)~~] "Retailer" means any person who sells at retail any alcoholic beverage for the sale of which a license is required.

(42)[~~(39)~~] "Sale" means any transfer, exchange, or barter for consideration, and includes all sales made by any person, whether principal, proprietor, agent, servant, or employee, of any alcoholic beverage.

(43)[~~(40)~~] "Secretary" means the secretary of the Kentucky Revenue Cabinet.

(44) "Service bar" means a bar, counter, shelving, or similar structure used for storing or stocking supplies of alcoholic beverages that is a workstation where employees prepare alcoholic beverage drinks to be delivered to customers away from the service bar. A service bar shall be located in an area where the general public, guests, or patrons are prohibited.

(45)[~~(41)~~] "Sell" includes solicit or receive an order for, keep or expose for sale, keep with intent to sell, and the delivery of any alcoholic beverage.

(46)[~~(42)~~] "Small winery" means a winery producing wines from grapes, other fruit, or honey produced in Kentucky, unless exempt under KRS 243.155(2), in an amount not to exceed fifty thousand (50,000) gallons in one (1) year.

(47)[~~(43)~~] "Souvenir package" means a special package of Kentucky straight bourbon whiskey available for retail sale at a licensed Kentucky distillery where the whiskey was produced or bottled that is available from a licensed retailer.

(48)[~~(44)~~] "State administrator" means the administrator of the Distilled Spirits Unit or the administrator of the Malt Beverage Unit, or both, as the context requires.

(49) "Supplemental bar" means a bar, counter, shelving, or similar structure used for serving and selling distilled spirits or wine by the drink for consumption on the licensed premises to guests and patrons from additional locations other than the main bar. A supplemental bar shall be continuously constructed and accessible to patrons for distilled spirits or wine sales or service without physical separation by walls, doors, or similar structures.

(50)[~~(45)~~] "Vehicle" means any device or animal used to carry, convey, transport, or otherwise move alcoholic beverages or any products, equipment, or appurtenances used to manufacture, bottle, or sell these beverages.

(51)[~~(46)~~] "Vintner" means any person who owns, occupies, carries on, works, conducts, or operates any winery, either by himself or by his agent, except persons who manufacture wine for sacramental purposes exclusively.

(52)[~~(47)~~] "Warehouse" means any place in which alcoholic beverages are housed or stored.

(53)[~~(48)~~] "Wholesale sale" means a sale to any person for the purpose of resale.

(54)[~~(49)~~] "Wholesaler" means any person who distributes alcoholic beverages for the purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer or cooperative of a retail outlet.

(55)[~~(50)~~] "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne and sparkling and fortified wine of an alcoholic content not to exceed twenty-four percent (24%) by volume. It includes cider, hard cider, and perry cider and also includes preparations or mixtures vended in retail containers if these preparations or mixtures contain not more than fifteen percent (15%) of alcohol by volume. It includes ciders, perry, or sake having an alcohol content greater than that permitted under subsection (2)(i) of this section.

(56)[~~(51)~~] "Winery" means any place or premises in which wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded. It includes a winery for the manufacture of wine in any state or county other than Kentucky, if the out-of-state winery has and maintains a branch factory, office, or storeroom within this state and receives wine within this state consigned to a United States government bonded winery, warehouse, or storeroom located within this state.

Section 3. KRS 243.025 is amended to read as follows:

(1) All of the fees paid into the State Treasury for licenses issued under KRS 243.030 and 243.040 shall be credited to a revolving trust and agency account, as provided in KRS 45.253, for the Department of Alcoholic Beverage Control.

(2) All fees associated with the agency's server training program, except for board-ordered fees, shall be collected on a cost recovery basis and shall be credited to the revolving trust and agency account established under subsection (1) of this section.

(3) These moneys shall be used solely for the administration and enforcement of KRS Chapters 241, 242, 243, and 244. The moneys in the account shall not lapse at the close of the fiscal year.

Section 4. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the distilled spirits unit, the fees for which shall be:

(1)	Distiller's license, per annum	$2,500.00
(2)	Rectifier's license, per annum	$2,500.00
(3)	Blender's license, per annum	$2,500.00
(4)	Vintner's license, per annum	$1,000.00
(5)	Small winery license, per annum	$100.00
	(a) Small winery off-premises retail license, per annum	$25.00
(6)	Wholesaler's license, per annum	$2,000.00
(7)	Retail package license, per annum:	
	(a) In counties containing cities of the first class or a consolidated local government	$800.00
	(b) In counties containing cities of the second class	$700.00
	(c) In counties containing cities of the third class	$600.00
	(d) In counties containing cities of the fourth class	$500.00
	(e) In all other counties	$400.00
(8)	Retail drink license, motel drink license, restaurant drink license, or supplemental bar license, per annum:	
	(a) In counties containing cities of the first class or a consolidated local government	$1,000.00
	(b) In counties containing cities of the second class	$700.00
	(c) In counties containing cities of the third class	$600.00
	(d) In counties containing cities of the fourth class	$500.00
	(e) The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.	
(9)	Transporter's license, per annum	$100.00
(10)	Dining car license, per annum	$100.00
(11)	Special nonbeverage alcohol vendor's license, per annum	$50.00
(12)	Special industrial alcohol license, per annum	$50.00
(13)	Special nonindustrial alcohol license, per annum	$50.00
(14)	Special agent's or solicitor's license, per annum	$25.00
(15)	Special storage or warehouse license and bottling house storage license, per annum	$500.00
(16)	Special temporary liquor license, per event	$100.00
(17)	Special private club license, per annum	$300.00

The fee for each special private club license shall be the fee set out in this subsection; however, there shall be no charge for each special private club license issued in excess of six (6) that is issued to the same licensee at the same premises.

(18)	Special Sunday retail drink license, per annum	$500.00
(19)	Nonresident special agent or solicitor's license, per annum	$100.00
(20)	Transport permit, nonresident license, per annum	$100.00
(21)	Through transporter's license, per annum	$100.00
(22)	Freight forwarder's license, per annum	$100.00
(23)	Restaurant wine license, per annum	$500.00
(24)	Farm winery license, per annum	$100.00
	(a) Farm winery, off-premises retail outlet license, per annum	$25.00
(25)	Special temporary wine license, per event	$50.00
(26)	Caterer's license, per annum	$800.00
(27)	Souvenir retail liquor license, per annum	$500.00
(28)	Special temporary distilled spirits and wine auction license, per event	$100.00
(29)	Airport drink license, per annum	$1,000.00

(30)	Convention center or convention hotel complex license, per annum	$5,000.00
(31)	Extended hours supplemental license, per annum	$2,000.00
(32)	Horse race track license, per annum	$2,000.00
(33)	Automobile race track license, per annum	$2,000.00
(34)	Air or rail system license, per annum	$2,000.00
(35)	Riverboat license, per annum	$1,000.00
(36)	Bottling house license, per annum	$1,000.00
(37)	Hotel in-room license, per annum	$200.00
(38)	Bonded warehouse license, per annum	$1,000.00
(39)	Air transporter liquor license, per annum	$500.00
(40)	Sampling license, per annum	$100.00
(41)	Replacement or duplicate license	$25.00
(42)	*Entertainment destination license, per annum*	*$7,500.00*
(43)	*(a) Limited restaurant license or limited golf course license, per annum (includes distilled spirits, wine and malt beverages, new applicants:*	
	1. In counties containing cities of the first class or a consolidated local government	*$1,200.00*
	2. In counties containing cities of the second class	*$900.00*
	3. In counties containing cities of the third class	*$800.00*
	4. In counties containing cities of the fourth, fifth, or sixth classes	*$700.00*
	(b) Renewals for limited restaurant licenses or limited golf course licenses shall be $50.00 less than the applicable licensing fee for new applicants.	

(44) Other special licenses the board finds necessary for the proper regulation and control of the traffic in distilled spirits and wine and provides for by administrative regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

A nonrefundable application fee of fifty dollars ($50) shall be charged to process each new application under this section, except for subsections (5), (9), (11), (12), (13), (14), (16), (19), (20), (21), (22), (24), (25), (28), *(40),* and (41). The application fee shall be applied to the licensing fee if the license is issued; otherwise it shall be retained by the department.

Section 5. KRS 243.033 is amended to read as follows:

(1)[~~As used in this section, unless the context requires otherwise, "caterer" means a corporation, partnership, or individual that operates the business of a food service professional by preparing food and beverages in a licensed and inspected commissary, transporting the food and beverages to a location selected by the customer away from the commissary premises, and serving the food and beverages to the customer's guests.~~

~~(2)~~] A caterer's license may be issued as a supplementary license to a caterer that holds a retail package liquor license or a distilled spirits and wine by the drink retail license*, or a limited restaurant license*.

(2)[~~(3)~~] The caterer's license may be issued *as a primary license* to a caterer *in any wet territory*[~~, that does not meet the requirements of subsection (2) of this section,~~] for the premises that serves as the caterer's commissary *and designated banquet hall. No primary caterer's license shall be issued to a premises that operates as a restaurant*. The alcoholic beverage stock of the caterer shall be kept under lock and key at the licensed premises during the time that the alcoholic beverages are not being used in conjunction with a catered function.

(3)[~~(4)~~] The caterer's license shall authorize the caterer to:

(a) Purchase and store alcoholic beverages in the manner prescribed in KRS 243.250, 243.280, and 244.310;

(b) *Transport, sell, serve, and deliver malt beverages by the drink at locations away from the license premises or at the caterer's designated banquet hall in conjunction with the catering of food and malt beverages for a customer and his or her guests, in:*

1. Cities and counties in which prohibition is not in effect under KRS 242.185(6) if the receipts from the catering of food at any catered event are at least seventy percent (70%) of the gross receipts from the catering of both food and malt beverages; or

2. All other wet territory if the receipts from the catering of food at any catered event are at least thirty-five percent (35%) of the gross receipts from the catering of both food and malt beverages;

(c) Transport, sell, serve, and deliver *distilled spirits and wine*[~~alcoholic beverages~~] by the drink at locations[~~ in wet territory~~] away from the licensed premises *or at the caterer's designated banquet hall* in conjunction with the

catering of food and ***alcoholic*** beverages for a customer and his guests***, in:***

1. Cities and counties in which prohibition is not in effect under KRS 242.185(6) if the receipts from the catering of food at any catered event are at least seventy percent (70%) of the gross receipts from the catering of both food and alcoholic beverages;

2. Cities of the fourth class and counties containing cities of the fourth class in which prohibition is not in effect under KRS 242.185(1) to (5) if the receipts from the catering of food at any catered event are at least fifty percent (50%) of the gross receipts from the catering of both food and alcoholic beverages; or

3. All other wet territory in which the sale of distilled spirits and wine by the drink is authorized if the receipts from the catering of food at any catered event are at least thirty-five percent (35%) of the gross receipts from the catering of both food and alcoholic beverages[~~. Distilled spirits and wine may only be transported, sold, served, or delivered in cities of the first, second, or third classes, counties containing cities of the first, second, or third classes, and cities of the fourth class in which the sale of distilled spirits and wine has been adopted pursuant to KRS 242.127~~];

(d)[~~(c)~~]Receive and fill telephone orders for alcoholic beverages in conjunction with the ordering of food for a ***catered event***[~~function catered by the licensee~~]; and

(e)[~~(d)~~]Receive payment for alcoholic beverages served at a ***catered event***[~~function~~] on a by-the-drink or ***by-the-event***[~~by-the-function~~] basis. The caterer may bill the host for by-the-function sales of alcoholic beverages in the usual course of the caterer's business.

(4)[~~(5)~~] A caterer licensee shall not cater alcoholic beverages at locations for which retail alcoholic beverage licenses or special temporary licenses have been issued.

(5)[~~(6)~~] A caterer licensee shall not cater distilled spirits and wine on Sunday except in territory in which the Sunday sale of distilled spirits and wine is permitted under the provisions of KRS 244.290 ***and 244.295***. A caterer licensee shall not cater malt beverages on Sunday except in territory in which the Sunday sale of malt beverages is permitted under the provisions of KRS 244.480.

(6)[~~(7)~~] The location at which alcoholic beverages are sold, served, and delivered by a caterer, pursuant to this section, shall not constitute a public place for the purpose of KRS Chapter 222. If the location is a multi-unit structure, only the unit or units at which the function being catered is held shall be excluded from the public place provisions of KRS Chapter 222.

(7)[~~(8)~~] The caterer licensee shall post a copy of his caterer's license at the location of the function for which alcoholic beverages are catered.

(8)[~~(9)~~] The name and license numbers of the caterer shall be painted ***or securely attached***, in a contrasting color, in a form prescribed by the board by promulgation of an administrative regulation, upon all vehicles used by the caterer to transport alcoholic beverages.

(9)[~~(10)~~] All restrictions and prohibitions applying to a distilled spirits and wine retail drink licensee not inconsistent with this section, shall apply to the caterer licensee.

(10)[~~(11)~~] The caterer licensee shall ***maintain records as set forth in KRS 244.150 and in administrative regulations promulgated by***[~~submit a list of functions catered or to be catered including location, host, date, and time upon request of~~] the board.

Section 6. KRS 243.040 is amended to read as follows:

The following kinds of malt beverage licenses may be issued by the administrator of the malt beverages unit, the fees for which shall be:

(1)	Brewer's license, per annum	$2,500.00
(2)	Microbrewery license, per annum	$500.00
(3)	Distributor's license, per annum	$500.00
(4)	Malt beverage retail license, per annum:	
	(a) New applicants	$200.00
	(b) Renewals	$150.00
(5)	Dining car license, per annum	$200.00
(6)	Transporter's license, per annum	$100.00
(7)	Special temporary license, per event	$50.00
(8)	Special off-premises retail storage license, per annum	$100.00
(9)	Distributor's storage, per annum	$250.00
(10)	Special beer transporter's license, per annum	$100.00
(11)	Brew-on-premises license, per annum	$500.00

(12) Out-of-state brewer license, per annum $1,500.00

(13) Malt beverage warehouse license, per annum $1,000.00

(14) Replacement or duplicate license, per annum $25.00

(15) *Limited out-of-state brewer license, per annum $250.00*

(16) Other special licenses as the state board finds to be necessary for the administration of KRS Chapters 241, 243, and 244 and for the proper regulation and control of the trafficking in malt beverages, as provided for by administrative regulations promulgated by the state board.

Applicants for special licenses provided for under the authority granted in subsection (15) may be exempt from so much of the provisions of subsection (1)(f) of KRS 243.100 set out in administrative regulations promulgated by the board. A nonrefundable application fee of fifty dollars ($50) shall be charged to process each new application for a license under this section except for subsections (6), (7), (10), and (14). The application fee shall be applied to the licensing fee if the license is issued, or otherwise the fee shall be retained by the department.

Section 7. KRS 243.060 is amended to read as follows:

(1) The fiscal court of each county or a consolidated local government in which traffic in alcoholic beverages is not prohibited under KRS Chapter 242 may impose license fees for the privilege of trafficking in alcoholic beverages. These licenses may be issued by the county or consolidated local government administrator. The license fees shall not exceed the following:

- (a) Retail package licenses, per annum:
    - 1. In counties containing cities of the first class or a consolidated local government $1,200.00
    - 2. In counties containing cities of the second class $1,000.00
    - 3. In counties containing cities of the third class $800.00
    - 4. In counties containing cities of the fourth class $600.00
    - 5. In all other counties $400.00
- (b) Retail drink license, motel drink license, restaurant drink license, or supplemental bar license, per annum:
    - 1. In counties containing cities of the first class or a consolidated local government $1,600.00
    - 2. In counties containing cities of the second class $1,000.00
    - 3. In counties containing cities of the third class $800.00
    - 4. In counties containing cities of the fourth class $600.00
- (c) Special temporary liquor license, per event:
    - 1. In counties containing cities of the first class or a consolidated local government $266.66
    - 2. In counties containing cities of the second class $166.66
    - 3. In counties containing cities of the third class $133.34
    - 4. In counties containing cities of the fourth class $100.00
- (d) Restaurant wine license, per annum:
    - 1. New applicants $600.00
    - 2. Applicants for renewal $400.00
- (e) Special temporary wine license, per event $50.00
- (f) Special private club license, per annum $300.00
- (g) Special Sunday retail drink license, per annum $300.00
- (h) Retail malt beverage license, per annum:
    - 1. New applicants $400.00
    - 2. Applicants for renewal $150.00
- (i) Special temporary malt beverage license, per event $25.00
- *(j) 1. Limited restaurant license or limited golf course license, per annum (includes distilled spirits, wine, and malt beverages), new applicants:*
    - *a. In counties containing cities of the first class or a consolidated local government $2,000.00*
    - *b. In counties containing cities of the second class $1,400.00*
    - *c. In counties containing cities of the third class $1,200.00*
    - *d. In counties containing cities of the fourth, fifth, or sixth class $1,000.00*
  - *2. Renewals for limited restaurant licenses or limited golf course licenses are $250.00 less than the*

applicable licensing fee for new applicants.

(2) Any amount paid to any city within the county as a license fee for the same privilege for the same year may be credited against the county license fee.

(3) If any part of this section is held invalid, all of this section and of KRS 243.600 shall also be considered invalid.

Section 8. KRS 243.070 is amended to read as follows:

The legislative body of any city or a consolidated local government in which traffic in alcoholic beverages is not prohibited under KRS Chapter 242 may impose license fees for the privilege of manufacturing and trafficking in alcoholic beverages. Only those licenses set out in this section shall be issued, and the fee for each shall not exceed the specified amount:

(1)			Distilled spirit licenses as set forth in KRS 243.030:	
	(a)		Distiller's license, per annum	$500.00
	(b)		Rectifier's license, per annum	$3,000.00
	(c)		Blender's license, per annum	$3,000.00
	(d)		Wholesaler's distilled spirits and wine license, per annum	$3,000.00
	(e)		Distilled spirits and wine retail package license, per annum:	
		1.	In counties containing cities of the first class or a consolidated local government	$1,200.00
		2.	In counties containing cities of the second class	$1,000.00
		3.	In counties containing cities of the third class	$800.00
		4.	In counties containing cities of the fourth class	$600.00
		5.	In all other counties	$400.00
(2)			Distilled spirits and wine retail drink license, motel drink license, airport drink license, restaurant drink license, or supplemental bar license, per annum:	
	(a)		In counties containing cities of the first class or a consolidated local government	$1,600.00
	(b)		In counties containing cities of the second class	$1,000.00
	(c)		In counties containing cities of the third class	$800.00
	(d)		In counties containing cities of the fourth class	$600.00
(3)			Distilled spirits and wine special temporary liquor license, per event:	
	(a)		In counties containing cities of the first class or a consolidated local government	$266.66
	(b)		In counties containing cities of the second class	$166.66
	(c)		In counties containing cities of the third class	$133.33
	(d)		In counties containing cities of the fourth class	$100.00
(4)			Special temporary wine license, per event	$50.00
(5)			Distilled spirits and wine special temporary auction license, per event	$200.00
(6)			Special private club license, per annum	$300.00
(7)			Distilled spirits and wine special Sunday retail drink license, per annum	$300.00
(8)			Extended hours supplemental license, per annum	$2,000.00
(9)			Nonresident special agent or solicitor's license, per annum	$40.00
(10)			Restaurant wine license, per annum:	
	(a)		New applicants	$600.00
	(b)		Applicants for renewal	$400.00
(11)			Caterer's license, per annum	$800.00
(12)			Riverboat license, per annum	$1,200.00
(13)			Horse race track license, per annum	$2,000.00
(14)			Convention center or convention hotel complex license, per annum	$2,000.00
(15)			Bottling house distilled spirits license or wine storage license, per annum	$1,000.00
(16)			Automobile race track license, per annum	$2,000.00

(17) Souvenir retail liquor license, per annum $1,000.00

(18) Malt beverage licenses as follows:

- (a) Brewer's license, per annum $500.00
- (b) Microbrewery license, per annum $500.00
- (c) Malt beverage distributor's license, per annum $400.00
- (d) Retail malt beverage license, per annum $200.00
- (e) Special temporary retail malt beverage license, per event $25.00
- (f) Malt beverage brew-on-premises license, per annum $100.00

(19) Limited restaurant license or limited golf course license, per annum (includes distilled spirits, wine, and malt beverages), new applicants:

- *(a) In counties containing cities of the first class or a consolidated local government.......... $1,800.00*
- *(b) In counties containing cities of the second class.......... $1,200.00*
- *(c) In counties containing cities of the third class.......... $1,000.00*
- *(d) In counties containing cities of the fourth, fifth, or sixth class.......... $800.00*

Section 9. KRS 243.480 is amended to read as follows:

(1) Upon proceedings for the revocation of any license under KRS 243.520, the Alcoholic Beverage Control Board, or the local alcoholic beverage administrator, may in its or his or her discretion order a suspension of the license for any cause for which it may, but is not required to, revoke the license under the provisions of KRS 243.490 and 243.500. However, the licensee may have the alternative, subject to the approval of the Alcoholic Beverage Control Board or the local alcoholic beverage administrator, to pay in lieu of part or all of the days of any suspension period, a sum as follows: Distillers, rectifiers, vintners, brewers, and blenders, one thousand dollars ($1,000) per day; wholesale liquor licensees, four hundred dollars ($400) per day; wholesale beer licensees, four hundred dollars ($400) per day; retail licensees authorized to sell distilled spirits, wine, or beer by the package or drink, fifty dollars ($50) per day; and all remaining licensees, fifty dollars ($50) per day.

(2) Payments in lieu of suspension *or for board-ordered agency server training, collected on a cost recovery basis,* collected by the Alcoholic Beverage Control Board shall be deposited in the State Treasury and credited to the general expenditure fund. Payments in lieu of suspension collected by local alcoholic beverage administrators shall be deposited and used as local alcoholic beverage license tax receipts are deposited and used.

(3) *In addition to or in lieu of a suspension of a license, the board may order a licensee to pay for and require attendance and completion by some or all of the licensee's alcoholic beverage servers in the agency's server training program.*

(4) Appeals from orders of suspension and the procedure thereon shall be the same as are provided for orders of revocation in KRS Chapter 13B.

Section 10. KRS 243.630 is amended to read as follows:

(1) For purpose of this section, "transfer" means:

- (a) The transfer to a new person or entity of ten percent (10%) or more ownership interest in any license issued under KRS 243.020 to 243.670; or
- (b) The transfer in bulk, and not in the ordinary course of business, of a major part of the fixtures, materials, supplies, merchandise, or other inventory of a licensee's business.

(2) Any license issued under KRS 243.020 to 243.670 to any person for any licensed premises shall not be transferable or assignable to any other person or to any other premises or to any other part of the building containing the licensed premises, unless a transfer or assignment is authorized by the state administrator in the exercise of his sound discretion under KRS 243.640 or 243.650. For the purposes of this section, each railroad dining car shall be deemed premises to be separately licensed.

(3) A licensee shall not acquire or otherwise dispose of any interest in a licensed premises or any license issued by the department, by sale of assets, stock, inventory, control or right of control, or activities on the licensed premises without prior approval of the state administrator. The state administrator shall grant approval if the person acquiring the interest meets the qualifications for a new applicant.

(4) Any acquisition of interest in a license without prior authorization shall be void.

(5) All applications for approval of a transfer shall be made in writing to the state administrator having jurisdiction over the license.

(6) Applications for approval of a transfer shall be made under oath or affirmation, shall be signed by both the transferor and the transferee, and shall contain such other information as the department may prescribe.

(7) The appropriate state administrator shall grant or deny the application within sixty (60) days of the date the application is

substantially complete or on a later date that is mutually acceptable to the administrator and the transferee, but it shall not be acted upon before the end of the public protest period outlined in KRS 243.360.

(8) No licensee or other person seeking to acquire an interest in an existing license shall transfer control or assume control of any licensed premises by agreement or otherwise ***without the written consent of the state malt beverage administrator or the state distilled spirits administrator or both***.

(9) A licensee shall not transfer his or her license or any interest in the license while any proceedings against the license or the licensee for a violation of any statute or regulation which may result in the suspension or revocation of the license are pending.

(10) A licensee shall not transfer his or her license or any interest he or she has in the license if the licensee owes a debt on the inventory to a wholesaler responsible for the collection and payment of the tax imposed under KRS 243.884.

(11) A licensee shall not transfer his or her license or any interest in the license if the licensee owes the Commonwealth of Kentucky for taxes as defined in KRS 243.500(5). A transfer shall not take place until the department is notified by the Kentucky Revenue Cabinet that the licensee's indebtedness has been paid or resolved to the cabinet's satisfaction. This section shall not prohibit a transfer of a license or an interest in a license by a trustee in bankruptcy if all other requirements of this section are met.

Section 11. KRS 244.050 is amended to read as follows:

(1) No retail licensee shall give away any alcoholic beverage in any quantity, or deliver it in any quantity for less than a full monetary consideration, except as provided by KRS 243.155, 243.156, 243.157, and subsection (2) of this section.

(2) A retailer licensed to sell distilled spirits and wine under KRS 243.030(7), (8), or (27) may, after acquiring a license under KRS 243.030(40), allow customers to sample distilled spirits and wine under the following conditions:

  (a) Sampling shall be permitted only on licensed premises and, for ***licensees***[~~retailers~~] licensed under KRS 243.030***(7),*** (8)***,*** or (27), during regular business hours;

  (b) A licensee shall not charge for the samples provided to customers;

  (c) Sample sizes shall not exceed:

    1. One (1) ounce for wine; and

    2. One-half (1/2) ounce for distilled spirits; and

  (d) A licensee shall limit a customer to:

    1. Two (2) distilled spirits samples per day; and

    2. Six (6) wine samples per day.

(3) Retailers licensed under KRS 243.030(7) or (8) shall:

  (a) Notify the Department of Alcoholic Beverage Control at least seven (7) days in advance of conducting a sampling event; and

  (b) Limit a sampling event to a period not to exceed four (4) consecutive hours between 12 noon and 8 p.m.

The Committee Substitute to **HB 466** is as follows:

HB 466, AN ACT relating to alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

(1) A supplemental bar license shall authorize the licensee to sell or serve distilled spirits or wine by the drink at retail for consumption on the licensed premises from an additional location other than the main bar of an existing retail drink licensed premises. A supplemental bar license is a nonquota license and shall not be transferable to other premises.

(2) A supplemental bar license shall not be issued unless:

  (a) The licensee applies to the state distilled spirits administrator and meets all requirements for obtaining a supplemental bar license; and

  (b) The licensee pays the applicable license fee prescribed in KRS 243.030(8), (17), (23), (29), (35), or (43).

(3) A licensee authorized to sell and serve malt beverages may sell and serve malt beverages at any location on the licensed premises without obtaining a supplemental bar license.

Section 2. KRS 241.010 is amended to read as follows:

As used in this chapter and in KRS Chapters 242 and 243, unless the context requires otherwise:

(1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process it is produced.

(2) "Alcoholic beverage" means every liquid or solid, whether patented or not, containing alcohol in an amount in excess of

more than one percent (1%) of alcohol by volume, which is fit for beverage purposes. It includes every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. It does not include the following products:

(a) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary, or the American Institute of Homeopathy;

(b) Patented, patent, and proprietary medicines;

(c) Toilet, medicinal, and antiseptic preparations and solutions;

(d) Flavoring extracts and syrups;

(e) Denatured alcohol or denatured rum;

(f) Vinegar and preserved sweet cider;

(g) Wine for sacramental purposes;

(h) Alcohol unfit for beverage purposes that is to be sold for legitimate external use; and

(i) Malt beverages, containing not more than three and two-tenths percent (3.2%) of alcohol by weight, in territory that has voted to allow the sale thereof.

(3) "Board" means the State Alcoholic Beverage Control Board created by KRS 241.030.

(4) "Bottle" means any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail.

(5) "Brewer" means any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either by himself or by his agent.

(6) "Brewery" means any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards, and storerooms connected with the premises; or where any part of the process of the manufacture of malt beverages is carried on; or where any apparatus connected with manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept.

(7) "Building containing licensed premises" means the licensed premises themselves and includes the land, tract of land, or parking lot in which the premises are contained, and any part of any building connected by direct access or by an entrance which is under the ownership or control of the licensee by lease holdings or ownership.

(8) "Cabinet" means the Revenue Cabinet unless the context requires otherwise.

(9) ***"Caterer" means a corporation, partnership, or individual that operates the business of a food service professional by preparing food in a licensed and inspected commissary, transporting the food and alcoholic beverages to the caterer's designated and inspected banquet hall or to a location selected by the customer, and serving the food and alcoholic beverages to the customer's guests.***

(10) "Charitable organization" means a nonprofit entity recognized as exempt from federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec. 501(c)) or any organization having been established and continuously operating within the Commonwealth of Kentucky for charitable purposes for three (3) years and which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational, literary, civic, fraternal, or patriotic purposes.

(11)[~~(10)~~] "Cider" means any fermented fruit-based beverage containing more than one-tenth of one percent (0.1%) alcohol by volume and includes hard cider and perry cider.

(12)[~~(11)~~] "City administrator" means city alcoholic beverage control administrator.

(13)[~~(12)~~] "Commissioner" means the commissioner of alcoholic beverage control.

(14)[~~(13)~~] "Convention center" means any facility which, in its usual and customary business, provides seating for a minimum of one thousand (1,000) people and offers convention facilities and related services for seminars, training and educational purposes, trade association meetings, conventions, or civic and community events or for plays, theatrical productions, or cultural exhibitions.

(15)[~~(14)~~] "Convicted" and "conviction" means a finding of guilt resulting from a plea of guilty, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment.

(16)[~~(15)~~] "County administrator" means county alcoholic beverage control administrator.

(17)[~~(16)~~] "Department" means the Department of Alcoholic Beverage Control.

(18)[~~(17)~~] "Distilled spirits" or "spirits" means any product capable of being consumed by a human being which contains alcohol in excess of the amount permitted by KRS Chapter 242 obtained by distilling, mixed with water or other substances in solution, except wine, hard cider, and malt beverages.

(19)[~~(18)~~] "Distiller" means any person who is engaged in the business of manufacturing distilled spirits at any distillery in the state and is registered in the Office of the Collector of Internal Revenue for the United States at Louisville, Kentucky.

(20)[~~(19)~~] "Distillery" means any place or premises where distilled spirits are manufactured for sale, and which are registered in the office of any collector of internal revenue for the United States. It includes any United States government bonded

warehouse.

(21)[~~(20)~~] "Distributor" means any person who distributes malt beverages for the purpose of being sold at retail.

(22)[~~(21)~~] "Dry territory" means a county, city, district, or precinct in which a majority of voters have voted in favor of prohibition.

(23)[~~(22)~~] "Farm winery" means a winery located on a Kentucky farm with a producing vineyard, orchard, or similar growing area, manufacturing and bottling wines in an amount not to exceed twenty-five thousand (25,000) gallons per year.

(24)[~~(23)~~] "Election" means:

(a) An election held for the purpose of taking the sense of the people as to the application or discontinuance of alcoholic beverage sales under KRS Chapter 242; or

(b) Any other election not pertaining to alcohol.

(25)[~~(24)~~] "Field representative" means any employee or agent of the department who is regularly employed and whose primary function is to travel from place to place for the purpose of visiting taxpayers, and any employee or agent of the department who is assigned, temporarily or permanently, by the commissioner to duty outside the main office of the department at Frankfort, in connection with the administration of alcoholic beverage statutes.

(26)[~~(25)~~] "License" means any license issued pursuant to KRS 243.020 to 243.670.

(27)[~~(26)~~] "Licensee" means any person to whom a license has been issued, pursuant to KRS 243.020 to 243.670.

(28) "Limited restaurant" means a facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross income from the sale of food, which maintains a minimum seating capacity of one hundred (100) persons for dining, and which is located in a territory where prohibition is no longer in effect under KRS 242.185(6).

(29)[~~(27)~~] "Malt beverage" means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and having an alcoholic content greater than that permitted under subsection (2)(i) of this section.

(30)[~~(28)~~] "Manufacture" means distill, rectify, brew, bottle, and operate a winery.

(31)[~~(29)~~] "Manufacturer" means a vintner, distiller, rectifier, or brewer, and any other person engaged in the production or bottling of alcoholic beverages.

(32) "Minor" means any person who is not twenty-one (21) years of age or older.

(33)[~~(30)~~] "Premises" means the land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on. "Premises" shall not include as a single unit two (2) or more separate businesses of one (1) owner on the same lot or tract of land, in the same or in different buildings if physical and permanent separation of the premises is maintained, excluding employee access by keyed entry and emergency exits equipped with crash bars, and each has a separate public entrance accessible directly from the sidewalk or parking lot. Any licensee holding an alcoholic beverage license on July 15, 1998 shall not, by reason of this subsection, be ineligible to continue to hold his or her license or obtain a renewal, of the license.

(34)[~~(31)~~] "Prohibition" means the application of KRS 242.190 to 242.430 to a territory.

(35)[~~(32)~~] "Rectifier" means any person who rectifies, purifies, or refines distilled spirits or wine by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying, or refining distilled spirits by mixing alcoholic beverages with any materials, manufactures any imitations of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name.

(36)[~~(33)~~] "Repackaging" means the placing of alcoholic beverages in any retail container irrespective of the material from which the container is made.

(37)[~~(34)~~] "Restaurant" means a facility where the usual and customary business is the serving of meals to consumers***,***[~~ and~~] that has a bona fide kitchen facility***, and that receives at least fifty percent (50%) of its gross receipts from the sale of food***.

(38)[~~(35)~~] "Retail container" means any bottle, can, barrel, or other container which, without a separable intermediate container, holds alcoholic beverages and is suitable and destined for sale to a retail outlet, whether it is suitable for delivery to the consumer or not.

(39)[~~(36)~~] "Retail outlet" means retailer, hotel, motel, restaurant, railroad dining car, club, and any facility where alcoholic beverages are sold directly to the consumers.

(40)[~~(37)~~] "Retail sale" means any sale where delivery is made in Kentucky to any consumers.

(41)[~~(38)~~] "Retailer" means any person who sells at retail any alcoholic beverage for the sale of which a license is required.

(42)[~~(39)~~] "Sale" means any transfer, exchange, or barter for consideration, and includes all sales made by any person, whether principal, proprietor, agent, servant, or employee, of any alcoholic beverage.

(43)[~~(40)~~] "Secretary" means the secretary of the Kentucky Revenue Cabinet.

(44) "Service bar" means a bar, counter, shelving, or similar structure used for storing or stocking supplies of alcoholic

beverages that is a workstation where employees prepare alcoholic beverage drinks to be delivered to customers away from the service bar. A service bar shall be located in an area where the general public, guests, or patrons are prohibited.

(45)[~~(41)~~] "Sell" includes solicit or receive an order for, keep or expose for sale, keep with intent to sell, and the delivery of any alcoholic beverage.

(46)[~~(42)~~] "Small winery" means a winery producing wines from grapes, other fruit, or honey produced in Kentucky, unless exempt under KRS 243.155(2), in an amount not to exceed fifty thousand (50,000) gallons in one (1) year.

(47)[~~(43)~~] "Souvenir package" means a special package of Kentucky straight bourbon whiskey available for retail sale at a licensed Kentucky distillery where the whiskey was produced or bottled that is available from a licensed retailer.

(48)[~~(44)~~] "State administrator" means the administrator of the Distilled Spirits Unit or the administrator of the Malt Beverage Unit, or both, as the context requires.

(49) "Supplemental bar" means a bar, counter, shelving, or similar structure used for serving and selling distilled spirits or wine by the drink for consumption on the licensed premises to guests and patrons from additional locations other than the main bar. A supplemental bar shall be continuously constructed and accessible to patrons for distilled spirits or wine sales or service without physical separation by walls, doors, or similar structures.

(50)[~~(45)~~] "Vehicle" means any device or animal used to carry, convey, transport, or otherwise move alcoholic beverages or any products, equipment, or appurtenances used to manufacture, bottle, or sell these beverages.

(51)[~~(46)~~] "Vintner" means any person who owns, occupies, carries on, works, conducts, or operates any winery, either by himself or by his agent, except persons who manufacture wine for sacramental purposes exclusively.

(52)[~~(47)~~] "Warehouse" means any place in which alcoholic beverages are housed or stored.

(53)[~~(48)~~] "Wholesale sale" means a sale to any person for the purpose of resale.

(54)[~~(49)~~] "Wholesaler" means any person who distributes alcoholic beverages for the purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer or cooperative of a retail outlet.

(55)[~~(50)~~] "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne and sparkling and fortified wine of an alcoholic content not to exceed twenty-four percent (24%) by volume. It includes cider, hard cider, and perry cider and also includes preparations or mixtures vended in retail containers if these preparations or mixtures contain not more than fifteen percent (15%) of alcohol by volume. It includes ciders, perry, or sake having an alcohol content greater than that permitted under subsection (2)(i) of this section.

(56)[~~(51)~~] "Winery" means any place or premises in which wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded. It includes a winery for the manufacture of wine in any state or county other than Kentucky, if the out-of-state winery has and maintains a branch factory, office, or storeroom within this state and receives wine within this state consigned to a United States government bonded winery, warehouse, or storeroom located within this state.

Section 3. KRS 243.025 is amended to read as follows:

(1) All of the fees paid into the State Treasury for licenses issued under KRS 243.030 and 243.040 shall be credited to a revolving trust and agency account, as provided in KRS 45.253, for the Department of Alcoholic Beverage Control.

(2) All fees associated with the agency's server training program, except for board-ordered fees, shall be collected on a cost recovery basis and shall be credited to the revolving trust and agency account established under subsection (1) of this section.

(3) These moneys shall be used solely for the administration and enforcement of KRS Chapters 241, 242, 243, and 244. The moneys in the account shall not lapse at the close of the fiscal year.

Section 4. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the administrator of the distilled spirits unit, the fees for which shall be:

(1)	Distiller's license, per annum	$2,500.00
(2)	Rectifier's license, per annum	$2,500.00
(3)	Blender's license, per annum	$2,500.00
(4)	Vintner's license, per annum	$1,000.00
(5)	Small winery license, per annum	$100.00
	(a) Small winery off-premises retail license, per annum	$25.00
(6)	Wholesaler's license, per annum	$2,000.00
(7)	Retail package license, per annum:	
	(a) In counties containing cities of the first class or a consolidated local government	$800.00

	(b)	In counties containing cities of the second class	$700.00
	(c)	In counties containing cities of the third class	$600.00
	(d)	In counties containing cities of the fourth class	$500.00
	(e)	In all other counties	$400.00
(8)		Retail drink license, motel drink license, restaurant drink license, or supplemental bar license, per annum:	
	(a)	In counties containing cities of the first class or a consolidated local government	$1,000.00
	(b)	In counties containing cities of the second class	$700.00
	(c)	In counties containing cities of the third class	$600.00
	(d)	In counties containing cities of the fourth class	$500.00
	(e)	The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises.	
(9)		Transporter's license, per annum	$100.00
(10)		Dining car license, per annum	$100.00
(11)		Special nonbeverage alcohol vendor's license, per annum	$50.00
(12)		Special industrial alcohol license, per annum	$50.00
(13)		Special nonindustrial alcohol license, per annum	$50.00
(14)		Special agent's or solicitor's license, per annum	$25.00
(15)		Special storage or warehouse license and bottling house storage license, per annum	$500.00
(16)		Special temporary liquor license, per event	$100.00
(17)		Special private club license, per annum	$300.00

The fee for each special private club license shall be the fee set out in this subsection; however, there shall be no charge for each special private club license issued in excess of six (6) that is issued to the same licensee at the same premises.

(18)		Special Sunday retail drink license, per annum	$500.00
(19)		Nonresident special agent or solicitor's license, per annum	$100.00
(20)		Transport permit, nonresident license, per annum	$100.00
(21)		Through transporter's license, per annum	$100.00
(22)		Freight forwarder's license, per annum	$100.00
(23)		Restaurant wine license, per annum	$500.00
(24)		Farm winery license, per annum	$100.00
	(a)	Farm winery, off-premises retail outlet license, per annum	$25.00
(25)		Special temporary wine license, per event	$50.00
(26)		Caterer's license, per annum	$800.00
(27)		Souvenir retail liquor license, per annum	$500.00
(28)		Special temporary distilled spirits and wine auction license, per event	$100.00
(29)		Airport drink license, per annum	$1,000.00
(30)		Convention center or convention hotel complex license, per annum	$5,000.00
(31)		Extended hours supplemental license, per annum	$2,000.00
(32)		Horse race track license, per annum	$2,000.00
(33)		Automobile race track license, per annum	$2,000.00
(34)		Air or rail system license, per annum	$2,000.00
(35)		Riverboat license, per annum	$1,000.00
(36)		Bottling house license, per annum	$1,000.00
(37)		Hotel in-room license, per annum	$200.00
(38)		Bonded warehouse license, per annum	$1,000.00
(39)		Air transporter liquor license, per annum	$500.00

(40) Sampling license, per annum $100.00

(41) Replacement or duplicate license $25.00

(42) *Entertainment destination license, per annum $7,500.00*

(43) (a) Limited restaurant license or limited golf course license, per annum (includes distilled spirits, wine and malt beverages), new applicants:

1. In counties containing cities of the first class or a consolidated local government ... $1,200.00

2. In counties containing cities of the second class $900.00

3. In counties containing cities of the third class $800.00

4. In counties containing cities of the fourth, fifth, or sixth classes $700.00

(b) Renewals for limited restaurant licenses or limited golf course licenses shall be $50.00 less than the applicable licensing fee for new applicants.

(44) Other special licenses the board finds necessary for the proper regulation and control of the traffic in distilled spirits and wine and provides for by administrative regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

A nonrefundable application fee of fifty dollars ($50) shall be charged to process each new application under this section, except for subsections (5), (9), (11), (12), (13), (14), (16), (19), (20), (21), (22), (24), (25), (28), *(40),* and (41). The application fee shall be applied to the licensing fee if the license is issued; otherwise it shall be retained by the department.

Section 5. KRS 243.033 is amended to read as follows:

(1)[~~ As used in this section, unless the context requires otherwise, "caterer" means a corporation, partnership, or individual that operates the business of a food service professional by preparing food and beverages in a licensed and inspected commissary, transporting the food and beverages to a location selected by the customer away from the commissary premises, and serving the food and beverages to the customer's guests.~~

~~(2)~~] A caterer's license may be issued as a supplementary license to a caterer that holds a retail package liquor license or a distilled spirits and wine by the drink retail license*, or a limited restaurant license*.

(2)[~~(3)~~] The caterer's license may be issued *as a primary license* to a caterer *in any wet territory*[~~, that does not meet the requirements of subsection (2) of this section,~~] for the premises that serves as the caterer's commissary *and designated banquet hall. No primary caterer's license shall be issued to a premises that operates as a restaurant*. The alcoholic beverage stock of the caterer shall be kept under lock and key at the licensed premises during the time that the alcoholic beverages are not being used in conjunction with a catered function.

(3)[~~(4)~~] The caterer's license shall authorize the caterer to:

(a) Purchase and store alcoholic beverages in the manner prescribed in KRS 243.250, 243.280, and 244.310;

(b) *Transport, sell, serve, and deliver malt beverages by the drink at locations away from the licensed premises or at the caterer's designated banquet hall in conjunction with the catering of food and malt beverages for a customer and his or her guests, in:*

1. Cities and counties in which prohibition is not in effect under KRS 242.185(6) if the receipts from the catering of food at any catered event are at least seventy percent (70%) of the gross receipts from the catering of both food and malt beverages; or

2. All other wet territory if the receipts from the catering of food at any catered event are at least thirty-five percent (35%) of the gross receipts from the catering of both food and malt beverages;

(c) Transport, sell, serve, and deliver *distilled spirits and wine*[~~alcoholic beverages~~] by the drink at locations[~~ in wet territory~~] away from the licensed premises *or at the caterer's designated banquet hall* in conjunction with the catering of food and *alcoholic* beverages for a customer and his guests*, in:*

1. Cities and counties in which prohibition is not in effect under KRS 242.185(6) if the receipts from the catering of food at any catered event are at least seventy percent (70%) of the gross receipts from the catering of both food and alcoholic beverages;

2. Cities of the fourth class and counties containing cities of the fourth class in which prohibition is not in effect under KRS 242.185(1) to (5) if the receipts from the catering of food at any catered event are at least fifty percent (50%) of the gross receipts from the catering of both food and alcoholic beverages; or

3. All other wet territory in which the sale of distilled spirits and wine by the drink is authorized if the receipts from the catering of food at any catered event are at least thirty-five percent (35%) of the gross receipts from the catering of both food and alcoholic beverages[~~. Distilled spirits and wine may only be transported, sold, served, or delivered in cities of the first, second, or third classes, counties containing cities of the first, second, or third classes, and cities of the fourth class in which the sale of distilled spirits and wine has been adopted pursuant to KRS 242.127~~];

(d)[~~(c)~~]Receive and fill telephone orders for alcoholic beverages in conjunction with the ordering of food for a ***catered event***[~~function catered by the licensee~~]; and

(e)[~~(d)~~]Receive payment for alcoholic beverages served at a ***catered event***[~~function~~] on a by-the-drink or ***by-the-event***[~~by-the-function~~] basis. The caterer may bill the host for by-the-function sales of alcoholic beverages in the usual course of the caterer's business.

(4)[~~(5)~~] A caterer licensee shall not cater alcoholic beverages at locations for which retail alcoholic beverage licenses or special temporary licenses have been issued.

(5)[~~(6)~~] A caterer licensee shall not cater distilled spirits and wine on Sunday except in territory in which the Sunday sale of distilled spirits and wine is permitted under the provisions of KRS 244.290 ***and 244.295***. A caterer licensee shall not cater malt beverages on Sunday except in territory in which the Sunday sale of malt beverages is permitted under the provisions of KRS 244.480.

(6)[~~(7)~~] The location at which alcoholic beverages are sold, served, and delivered by a caterer, pursuant to this section, shall not constitute a public place for the purpose of KRS Chapter 222. If the location is a multi-unit structure, only the unit or units at which the function being catered is held shall be excluded from the public place provisions of KRS Chapter 222.

(7)[~~(8)~~] The caterer licensee shall post a copy of his caterer's license at the location of the function for which alcoholic beverages are catered.

(8)[~~(9)~~] The name and license numbers of the caterer shall be painted ***or securely attached***, in a contrasting color, in a form prescribed by the board by promulgation of an administrative regulation, upon all vehicles used by the caterer to transport alcoholic beverages.

(9)[~~(10)~~] All restrictions and prohibitions applying to a distilled spirits and wine retail drink licensee not inconsistent with this section, shall apply to the caterer licensee.

(10)[~~(11)~~] The caterer licensee shall ***maintain records as set forth in KRS 244.150 and in administrative regulations promulgated by***[~~submit a list of functions catered or to be catered including location, host, date, and time upon request of~~] the board.

Section 6. KRS 243.040 is amended to read as follows:

The following kinds of malt beverage licenses may be issued by the administrator of the malt beverages unit, the fees for which shall be:

(1)	Brewer's license, per annum	$2,500.00
(2)	Microbrewery license, per annum	$500.00
(3)	Distributor's license, per annum	$500.00
(4)	Malt beverage retail license, per annum:	
	(a) New applicants	$200.00
	(b) Renewals	$150.00
(5)	Dining car license, per annum	$200.00
(6)	Transporter's license, per annum	$100.00
(7)	Special temporary license, per event	$50.00
(8)	Special off-premises retail storage license, per annum	$100.00
(9)	Distributor's storage, per annum	$250.00
(10)	Special beer transporter's license, per annum	$100.00
(11)	Brew-on-premises license, per annum	$500.00
(12)	Out-of-state brewer license, per annum	$1,500.00
(13)	Malt beverage warehouse license, per annum	$1,000.00
(14)	Replacement or duplicate license, per annum	$25.00
(15)	***Limited out-of-state brewer license, per annum***	***$250.00***

(16) Other special licenses as the state board finds to be necessary for the administration of KRS Chapters 241, 243, and 244 and for the proper regulation and control of the trafficking in malt beverages, as provided for by administrative regulations promulgated by the state board.

Applicants for special licenses provided for under the authority granted in subsection (15) may be exempt from so much of the provisions of subsection (1)(f) of KRS 243.100 set out in administrative regulations promulgated by the board. A nonrefundable application fee of fifty dollars ($50) shall be charged to process each new application for a license under this section except for subsections (6), (7), (10), and (14). The application fee shall be applied to the licensing fee if the license is issued, or otherwise the fee shall be retained by the department.

Section 7. KRS 243.060 is amended to read as follows:

(1) The fiscal court of each county or a consolidated local government in which traffic in alcoholic beverages is not prohibited under KRS Chapter 242 may impose license fees for the privilege of trafficking in alcoholic beverages. These licenses may be issued by the county or consolidated local government administrator. The license fees shall not exceed the following:

(a) Retail package licenses, per annum:

1. In counties containing cities of the first class or a consolidated local government $1,200.00
2. In counties containing cities of the second class $1,000.00
3. In counties containing cities of the third class $800.00
4. In counties containing cities of the fourth class $600.00
5. In all other counties $400.00

(b) Retail drink license, motel drink license, restaurant drink license, or supplemental bar license, per annum:

1. In counties containing cities of the first class or a consolidated local government $1,600.00
2. In counties containing cities of the second class $1,000.00
3. In counties containing cities of the third class $800.00
4. In counties containing cities of the fourth class $600.00

(c) Special temporary liquor license, per event:

1. In counties containing cities of the first class or a consolidated local government $266.66
2. In counties containing cities of the second class $166.66
3. In counties containing cities of the third class $133.34
4. In counties containing cities of the fourth class $100.00

(d) Restaurant wine license, per annum:

1. New applicants $600.00
2. Applicants for renewal $400.00

(e) Special temporary wine license, per event $50.00

(f) Special private club license, per annum $300.00

(g) Special Sunday retail drink license, per annum $300.00

(h) Retail malt beverage license, per annum:

1. New applicants $400.00
2. Applicants for renewal $150.00

(i) Special temporary malt beverage license, per event $25.00

(j) 1. Limited restaurant license or limited golf course license, per annum (includes distilled spirits, wine, and malt beverages), new applicants:

a. In counties containing cities of the first class or a consolidated local government....... $2,000.00

b. In counties containing cities of the second class....... $1,400.00

c. In counties containing cities of the third class....... $1,200.00

d. In counties containing cities of the fourth, fifth, or sixth class....... $1,000.00

2. Renewals for limited restaurant licenses or limited golf course licenses are $250.00 less than the applicable licensing fee for new applicants.

(2) Any amount paid to any city within the county as a license fee for the same privilege for the same year may be credited against the county license fee.

(3) If any part of this section is held invalid, all of this section and of KRS 243.600 shall also be considered invalid.

Section 8. KRS 243.070 is amended to read as follows:

The legislative body of any city or a consolidated local government in which traffic in alcoholic beverages is not prohibited under KRS Chapter 242 may impose license fees for the privilege of manufacturing and trafficking in alcoholic beverages. Only those licenses set out in this section shall be issued, and the fee for each shall not exceed the specified amount:

(1) Distilled spirit licenses as set forth in KRS 243.030:

(a) Distiller's license, per annum $500.00

(b) Rectifier's license, per annum $3,000.00

(c) Blender's license, per annum $3,000.00

(d) Wholesaler's distilled spirits and wine license, per annum $3,000.00
(e) Distilled spirits and wine retail package license, per annum:
  1. In counties containing cities of the first class or a consolidated local government $1,200.00
  2. In counties containing cities of the second class $1,000.00
  3. In counties containing cities of the third class $800.00
  4. In counties containing cities of the fourth class $600.00
  5. In all other counties $400.00

(2) Distilled spirits and wine retail drink license, motel drink license, airport drink license, restaurant drink license, or supplemental bar license, per annum:
  (a) In counties containing cities of the first class or a consolidated local government $1,600.00
  (b) In counties containing cities of the second class $1,000.00
  (c) In counties containing cities of the third class $800.00
  (d) In counties containing cities of the fourth class $600.00

(3) Distilled spirits and wine special temporary liquor license, per event:
  (a) In counties containing cities of the first class or a consolidated local government $266.66
  (b) In counties containing cities of the second class $166.66
  (c) In counties containing cities of the third class $133.33
  (d) In counties containing cities of the fourth class $100.00

(4) Special temporary wine license, per event $50.00
(5) Distilled spirits and wine special temporary auction license, per event $200.00
(6) Special private club license, per annum $300.00
(7) Distilled spirits and wine special Sunday retail drink license, per annum $300.00
(8) Extended hours supplemental license, per annum $2,000.00
(9) Nonresident special agent or solicitor's license, per annum $40.00
(10) Restaurant wine license, per annum:
  (a) New applicants $600.00
  (b) Applicants for renewal $400.00
(11) Caterer's license, per annum $800.00
(12) Riverboat license, per annum $1,200.00
(13) Horse race track license, per annum $2,000.00
(14) Convention center or convention hotel complex license, per annum $2,000.00
(15) Bottling house distilled spirits license or wine storage license, per annum $1,000.00
(16) Automobile race track license, per annum $2,000.00
(17) Souvenir retail liquor license, per annum $1,000.00
(18) Malt beverage licenses as follows:
  (a) Brewer's license, per annum $500.00
  (b) Microbrewery license, per annum $500.00
  (c) Malt beverage distributor's license, per annum $400.00
  (d) Retail malt beverage license, per annum $200.00
  (e) Special temporary retail malt beverage license, per event $25.00
  (f) Malt beverage brew-on-premises license, per annum $100.00

(19) Limited restaurant license or limited golf course license, per annum (includes distilled spirits, wine, and malt beverages), new applicants:
  (a) In counties containing cities of the first class or a consolidated local government $1,800.00

(b) In counties containing cities of the second class..............................$1,200.00

(c) In counties containing cities of the third class................................$1,000.00

(d) In counties containing cities of the fourth, fifth, or sixth class..$800.00

Section 9. KRS 243.480 is amended to read as follows:

(1) Upon proceedings for the revocation of any license under KRS 243.520, the Alcoholic Beverage Control Board, or the local alcoholic beverage administrator, may in its or his or her discretion order a suspension of the license for any cause for which it may, but is not required to, revoke the license under the provisions of KRS 243.490 and 243.500. However, the licensee may have the alternative, subject to the approval of the Alcoholic Beverage Control Board or the local alcoholic beverage administrator, to pay in lieu of part or all of the days of any suspension period, a sum as follows: Distillers, rectifiers, vintners, brewers, and blenders, one thousand dollars ($1,000) per day; wholesale liquor licensees, four hundred dollars ($400) per day; wholesale beer licensees, four hundred dollars ($400) per day; retail licensees authorized to sell distilled spirits, wine, or beer by the package or drink, fifty dollars ($50) per day; and all remaining licensees, fifty dollars ($50) per day.

(2) Payments in lieu of suspension ***or for board-ordered agency server training, collected on a cost recovery basis,*** collected by the Alcoholic Beverage Control Board shall be deposited in the State Treasury and credited to the general expenditure fund. Payments in lieu of suspension collected by local alcoholic beverage administrators shall be deposited and used as local alcoholic beverage license tax receipts are deposited and used.

(3) ***In addition to or in lieu of a suspension of a license, the board may order a licensee to pay for and require attendance and completion by some or all of the licensee's alcoholic beverage servers in the agency's server training program.***

(4) Appeals from orders of suspension and the procedure thereon shall be the same as are provided for orders of revocation in KRS Chapter 13B.

Section 10. KRS 243.630 is amended to read as follows:

(1) For purpose of this section, "transfer" means:

(a) The transfer to a new person or entity of ten percent (10%) or more ownership interest in any license issued under KRS 243.020 to 243.670; or

(b) The transfer in bulk, and not in the ordinary course of business, of a major part of the fixtures, materials, supplies, merchandise, or other inventory of a licensee's business.

(2) Any license issued under KRS 243.020 to 243.670 to any person for any licensed premises shall not be transferable or assignable to any other person or to any other premises or to any other part of the building containing the licensed premises, unless a transfer or assignment is authorized by the state administrator in the exercise of his sound discretion under KRS 243.640 or 243.650. For the purposes of this section, each railroad dining car shall be deemed premises to be separately licensed.

(3) A licensee shall not acquire or otherwise dispose of any interest in a licensed premises or any license issued by the department, by sale of assets, stock, inventory, control or right of control, or activities on the licensed premises without prior approval of the state administrator. The state administrator shall grant approval if the person acquiring the interest meets the qualifications for a new applicant.

(4) Any acquisition of interest in a license without prior authorization shall be void.

(5) All applications for approval of a transfer shall be made in writing to the state administrator having jurisdiction over the license.

(6) Applications for approval of a transfer shall be made under oath or affirmation, shall be signed by both the transferor and the transferee, and shall contain such other information as the department may prescribe.

(7) The appropriate state administrator shall grant or deny the application within sixty (60) days of the date the application is substantially complete or on a later date that is mutually acceptable to the administrator and the transferee, but it shall not be acted upon before the end of the public protest period outlined in KRS 243.360.

(8) No licensee or other person seeking to acquire an interest in an existing license shall transfer control or assume control of any licensed premises by agreement or otherwise ***without the written consent of the state malt beverage administrator or the state distilled spirits administrator or both***.

(9) A licensee shall not transfer his or her license or any interest in the license while any proceedings against the license or the licensee for a violation of any statute or regulation which may result in the suspension or revocation of the license are pending.

(10) A licensee shall not transfer his or her license or any interest he or she has in the license if the licensee owes a debt on the inventory to a wholesaler responsible for the collection and payment of the tax imposed under KRS 243.884.

(11) A licensee shall not transfer his or her license or any interest in the license if the licensee owes the Commonwealth of Kentucky for taxes as defined in KRS 243.500(5). A transfer shall not take place until the department is notified by the Kentucky Revenue Cabinet that the licensee's indebtedness has been paid or resolved to the cabinet's satisfaction. This

section shall not prohibit a transfer of a license or an interest in a license by a trustee in bankruptcy if all other requirements of this section are met.

Section 11. KRS 244.050 is amended to read as follows:

(1) No retail licensee shall give away any alcoholic beverage in any quantity, or deliver it in any quantity for less than a full monetary consideration, except as provided by KRS 243.155, 243.156, 243.157, and subsection (2) of this section.

(2) A retailer licensed to sell distilled spirits and wine under KRS 243.030(7), (8), or (27) may, after acquiring a license under KRS 243.030(40), allow customers to sample distilled spirits and wine under the following conditions:

- (a) Sampling shall be permitted only on licensed premises and, for *licensees*[~~retailers~~] licensed under KRS 243.030*(7),* (8)*,* or (27), during regular business hours;
- (b) A licensee shall not charge for the samples provided to customers;
- (c) Sample sizes shall not exceed:
  - 1. One (1) ounce for wine; and
  - 2. One-half (1/2) ounce for distilled spirits; and
- (d) A licensee shall limit a customer to:
  - 1. Two (2) distilled spirits samples per day; and
  - 2. Six (6) wine samples per day.

(3) Retailers licensed under KRS 243.030(7) or (8) shall:

- (a) Notify the Department of Alcoholic Beverage Control at least seven (7) days in advance of conducting a sampling event; and
- (b) Limit a sampling event to a period not to exceed four (4) consecutive hours between 12 noon and 8 p.m.

The Committee on Judiciary reported **HB 291**, with Committee Substitute attached thereto, **HB 407**, with Committee Substitute attached thereto, and **HB 471**, with Committee Substitute attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 291, AN ACT relating to real property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

(1) An affidavit stating facts relating to matters that may affect the title to real estate in this state may be filed by the owner of the real estate, a person who has an interest in the real estate, an attorney, or a person who has knowledge of the facts.

(2) The affidavit shall contain:

- *(a) The affiant's signature;*
- *(b) The notarization of affiant's signature;*
- *(c) A printed, typewritten, or stamped statement showing the name and address of the individual who prepared the affidavit, and the statement shall be signed by the individual;*
- *(d) A reference to the deed or writing, giving the office, book, and page where recorded, and the date thereof; and*
- *(e) The name of the person appearing by the record to be the owner of the real estate at the time of the recording of the affidavit.*

(3) The affidavit shall be filed with the clerk of the county in which the real property is situated, and shall be recorded in the record of deeds and indexed in the general index of deeds in the name of the affiant and in the name of the record owner of the real estate at the time of the recording of the affidavit. For recording and indexing the affidavit, the clerk shall receive the same fees as are allowed for recording and indexing deeds.

(4) The affidavit shall raise a rebuttable presumption from the date of recording that the purported facts stated therein are true.

The Committee Substitute to **HB 291** is as follows:

HB 291, AN ACT relating to real property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 382 IS CREATED TO READ AS FOLLOWS:

(1) An affidavit stating facts relating to previously recorded deeds, mortgages, or other instruments may be filed by the owner of the real property, a person who has an interest in the real property, or an attorney who represents the owner

of the real property or a person who has an interest in the real property.

(2) The affidavit shall contain:

(a) The affiant's signature;

(b) The notarization of affiant's signature;

(c) A printed, typewritten, or stamped statement showing the name and address of the individual who prepared the affidavit, which statement shall be signed by the individual;

(d) A reference to the deed, mortgage, or other instrument, giving the office, book, and page where recorded, and the date thereof; and

(e) The name of the person appearing by the record to be the owner of the real property at the time of the recording of the affidavit and that person's current mailing address, if known.

(3) The affidavit shall be filed with the clerk of the county in which the real property is situated, and shall be recorded in the record of deeds, mortgages, or other records, and indexed in the general index of deeds, mortgages, or other records in the name of the person who has an interest in the real property and in the name of the record owner of the real property at the time of the recording of the affidavit. For recording and indexing the affidavit, the clerk shall receive the same fees as are allowed for recording and indexing deeds.

(4) An existing deed, mortgage, or other instrument, previously recorded, may be rerecorded by the refiling of the original instrument together with an affidavit as provided in subsections (1) to (3) of this section, and stating the reason for the rerecording.

(5) The county clerk shall send a copy of the affidavit by certified mail to the person specified in subsection (2)(e) of this section at the address specified in subsection (2)(e) of this section if that person is not the affiant. The fee for sending the copy of the affidavit shall be ten dollars ($10) and shall be paid by the affiant.

HB 407, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

(1) When a defendant files a motion for shock probation pursuant to KRS 439.265 or 439.267, the defendant shall submit evidence to the court that continued imprisonment of the defendant for the protection of the public is not necessary because:

(a) There is no substantial risk that during a period of probation or conditional discharge the defendant will commit another crime;

(b) The defendant is not in need of correctional treatment that can be provided most effectively by his or her commitment to a correctional institution; and

(c) The granting of shock probation or conditional discharge will not unduly depreciate the seriousness of the defendant's crime.

(2) (a) The court may grant shock probation or conditional discharge if it believes, by a preponderance of the evidence, that the granting of shock probation or conditional discharge will not violate subsection (1) of this section.

(b) There shall be a presumption that a person who has been previously convicted of a felony offense, or who has previously violated a condition of parole, a condition of probation, a condition of conditional discharge, or a condition of pretrial diversion shall not be granted shock probation unless the court finds, beyond a reasonable doubt, that the granting of shock probation or conditional discharge will not violate subsection (1) of this section.

(c) When granting shock probation or conditional discharge pursuant to KRS 439.265 or 439.267, the court shall make its reasons for granting shock probation or conditional discharge a part of the written record of the case.

(3) When the defendant files a motion for shock probation pursuant to KRS 439.265 or 439.267, he or she shall also file a copy of the motion with the office of the Commonwealth's attorney or county attorney, as appropriate, in the county in which the case was prosecuted and with the Attorney General.

(4) The court shall notify the defendant and the parties specified in subsection (3) of this section of the time, date, and location of the hearing on the motion. The Commonwealth's or county attorney, as appropriate, may appear and either agree to the motion, oppose the motion, or express no opinion on the motion. The Attorney General may also appear and either agree to the motion, oppose the motion, or express no opinion on the motion. If an officer specified in this section fails to appear the nonappearance shall be assumed by the court to be an expression of no opinion on the motion.

(5) An order of the court granting shock probation is an appealable order and may be appealed jointly or severally by the Commonwealth's or county attorney, as appropriate, or by the Attorney General.

Section 2. KRS 439.265 is amended to read as follows:

(1) Subject to the provisions of ***Section 1 of this Act,*** KRS Chapter 439***,*** and Chapters 500 to 534, any Circuit Court may, upon motion of the defendant made not earlier than thirty (30) days nor later than one hundred eighty (180) days after the defendant has been incarcerated in a county jail following his conviction and sentencing pending delivery to the institution to which he has been sentenced, or delivered to the keeper of the institution to which he has been sentenced, suspend the further execution of the sentence and place the defendant on probation upon terms the court determines. Time spent on any form of release following conviction shall not count toward time required under this section.

(2) The court shall consider any motion filed in accordance with subsection (1) of this section within sixty (60) days of the filing date of that motion, and shall enter its ruling within ten (10) days after considering the motion. The defendant may, in the discretion of the trial court, have the right to a hearing on any motion he may file, or have filed for him, that would suspend further execution of sentence. Any court order granting or denying a motion to suspend further execution of sentence is[~~ not~~] reviewable ***as provided in Section 1 of this Act***.

(3) (a) During the period in which the defendant may file a motion pursuant to this statute, the sentencing judge, within his or her discretion, may order that the defendant be held in a local detention facility that is not at or above maximum capacity until such time as the court rules on said motion. During this period of detention, and prior to the court's ruling on said motion, the court may require the defendant to participate in any approved community work program or other forms of work release. Persons held in the county jail pursuant to this subsection shall not be subject to transfer to a state correctional facility until the decision is made not to place the petitioner on shock probation.

(b) The provisions concerning community work programs or other forms of work release shall apply only to persons convicted of Class C or Class D felonies, and may be granted only after a hearing at which the Commonwealth's attorney ***or the Attorney General, or both,*** has the opportunity to present arguments in favor or opposition thereto.

(4) If the defendant is a violent offender as defined in KRS 439.3401, the sentence shall not be probated under this section.

(5) If the defendant has been convicted of an offense under KRS 510.050, 510.080, 530.020, 530.064, or 531.310, or criminal attempt to commit any of these offenses under KRS 506.010, the sentence shall not be suspended, in accordance with KRS 532.045.

(6) When a defendant has been convicted of a sex crime, as defined in KRS 17.500, the court shall order a comprehensive sex offender presentence evaluation, unless one has been provided within the past six (6) months, in which case the court may order an update of the comprehensive sex offender presentence evaluation of the defendant conducted by the sex offender treatment program operated or approved by the Department of Corrections or the Sex Offender Risk Assessment Advisory Board. The comprehensive sex offender presentence evaluation shall provide to the court a recommendation related to the risk of a repeat offense by the defendant and the defendant's amenability to treatment, and shall be considered by the court in determining whether to suspend the sentence. If the court suspends the sentence and places the defendant on probation, the provisions of KRS 532.045(3) to (7) shall apply.

(7) The authority granted in this section shall be exercised by the judge who imposed sentence on the defendant, unless he is unable to act and it appears that his inability to act should continue beyond the expiration of the term of the court. In such case, the judge who imposed sentence shall assign a judge to dispose of a motion filed under this section, or as prescribed by the rules and practices concerning the responsibility for disposition of criminal matters.

(8) The provisions of this section shall not apply where a sentence of death has been imposed.

(9) A person who has been convicted of, pled guilty to, or entered an Alford plea to any offense under KRS Chapter 218A relating to trafficking in a controlled substance shall not be eligible for probation under this section.

(10) A defendant may file only one (1) motion for shock probation.

Section 3. KRS 439.267 is amended to read as follows:

(1) Subject to the provisions of ***Section 1 of this Act,*** KRS Chapter 439***,*** and Chapters 500 to 534, any District Court, or any Circuit Court with respect to a defendant convicted in Circuit Court of a misdemeanor, may, upon motion of the defendant made not earlier than thirty (30) days after the defendant has been delivered to the keeper of the institution to which he has been sentenced, suspend the further execution of the sentence and place the defendant on probation upon terms as the court determines.

(2) The court shall consider any motion filed in accordance with subsection (1) of this section within sixty (60) days of the filing date of that motion, and shall enter its ruling within ten (10) days after considering the motion. The defendant may, in the discretion of the trial court, have the right to a hearing on any motion he may file, or have filed for him, that would suspend further execution of sentence. Any court order granting or denying a motion to suspend further execution of sentence is[~~ not~~] reviewable ***as provided in Section 1 of this Act***.

(3) The authority granted in this section shall be exercised by the judge who imposed sentence on the defendant, unless he is unable to act and it appears that his inability to act should continue beyond the expiration of the term of the court. In this case, the judge who imposed sentence shall assign a judge to dispose of a motion filed under this section, or as prescribed by the rules and practices concerning the responsibility for disposition of criminal matters.

(4) If the defendant has been convicted of a misdemeanor offense under KRS Chapter 510, or criminal attempt to commit any of these offenses under KRS 506.010, prior to considering the motion to suspend the sentence, the court may, for a

misdemeanor offense specified herein, and shall, for any felony offense specified in this subsection order an evaluation of the defendant to be conducted by the sex offender treatment program operated or approved by the Department of Corrections or the Department for Mental Health and Mental Retardation Services. The evaluation shall provide to the court a recommendation related to the risk of a repeat offense by the defendant and the defendant's amenability to treatment, and shall be considered by the court in determining whether to suspend the sentence. If the court suspends the sentence and places the defendant on probation, the provisions of KRS 532.045(3) to (7) shall apply.

(5) A person who has been convicted of, pled guilty to, or entered an Alford plea to any offense under KRS Chapter 218A relating to trafficking in a controlled substance shall not be eligible for probation under this section.

(6) A defendant may file only one (1) motion for shock probation.

The Committee Substitute to **HB 407** is as follows:

HB 407, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 439 IS CREATED TO READ AS FOLLOWS:

(1) When a defendant files a motion for shock probation pursuant to KRS 439.265 or 439.267, the defendant shall submit an affidavit to the court in support of the motion which shall contain information which the defendant believes will demonstrate to the court:

(a) That the continued imprisonment of the defendant for the protection of the public is not necessary;

(b) That the defendant is not in need of correctional treatment that can be provided most effectively by his or her commitment to a correctional institution; and

(c) Such other information as the defendant believes may assist the court in making a proper decision in the matter.

(2) The defendant may request a hearing on the motion for shock probation.

(3) When the defendant files a motion for shock probation pursuant to KRS 439.265 or 439.267, he or she shall file a copy of the motion with the office of the Commonwealth's attorney or county attorney, as appropriate, in the county in which the case was prosecuted.

(4) The Commonwealth's attorney or county attorney, as appropriate, may file an affidavit with the court as to the reasons why shock probation should not be granted and may request a hearing on the motion for shock probation.

(5) If either the defendant or the Commonwealth's attorney or county attorney request a hearing on the motion for shock probation the court shall hold a hearing on the motion at which hearing both sides may present evidence and witnesses to the court in support of granting or denying shock probation. The court shall notify the defendant and the Commonwealth's attorney or county attorney, as appropriate, of the time, date, and location of the hearing on the motion. If the Commonwealth's attorney or county attorney fails to appear at the hearing the nonappearance shall be assumed by the court to be an expression of no opinion on the motion.

(6) When granting or denying a motion for shock probation pursuant to KRS 439.265 or 439.267, the court shall issue written order and set forth its reasons for granting or denying shock probation.

(7) An order granting shock probation shall not be an appealable order.

Section 2. KRS 439.265 is amended to read as follows:

(1) Subject to the provisions of *Section 1 of this Act,* KRS Chapter 439*,* and Chapters 500 to 534, any Circuit Court may, upon motion of the defendant made not earlier than thirty (30) days nor later than one hundred eighty (180) days after the defendant has been incarcerated in a county jail following his conviction and sentencing pending delivery to the institution to which he has been sentenced, or delivered to the keeper of the institution to which he has been sentenced, suspend the further execution of the sentence and place the defendant on probation upon terms the court determines. Time spent on any form of release following conviction shall not count toward time required under this section.

(2) The court shall consider any motion filed in accordance with subsection (1) of this section within sixty (60) days of the filing date of that motion, and shall enter its ruling within ten (10) days after considering the motion. The defendant may, in the discretion of the trial court, have the right to a hearing on any motion he may file, or have filed for him, that would suspend further execution of sentence. Any court order granting or denying a motion to suspend further execution of sentence is[~~ not~~] reviewable *as provided in Section 1 of this Act*.

(3) (a) During the period in which the defendant may file a motion pursuant to this statute, the sentencing judge, within his or her discretion, may order that the defendant be held in a local detention facility that is not at or above maximum capacity until such time as the court rules on said motion. During this period of detention, and prior to the court's ruling on said motion, the court may require the defendant to participate in any approved community work program or other forms of work release. Persons held in the county jail pursuant to this subsection shall not be subject to transfer to a state correctional facility until the decision is made not to place the petitioner on shock probation.

(b) The provisions concerning community work programs or other forms of work release shall apply only to persons convicted of Class C or Class D felonies, and may be granted only after a hearing at which the Commonwealth's attorney has the opportunity to present arguments in favor or opposition thereto.

(4) If the defendant is a violent offender as defined in KRS 439.3401, the sentence shall not be probated under this section.

(5) If the defendant has been convicted of an offense under KRS 510.050, 510.080, 530.020, 530.064, or 531.310, or criminal attempt to commit any of these offenses under KRS 506.010, the sentence shall not be suspended, in accordance with KRS 532.045.

(6) When a defendant has been convicted of a sex crime, as defined in KRS 17.500, the court shall order a comprehensive sex offender presentence evaluation, unless one has been provided within the past six (6) months, in which case the court may order an update of the comprehensive sex offender presentence evaluation of the defendant conducted by the sex offender treatment program operated or approved by the Department of Corrections or the Sex Offender Risk Assessment Advisory Board. The comprehensive sex offender presentence evaluation shall provide to the court a recommendation related to the risk of a repeat offense by the defendant and the defendant's amenability to treatment, and shall be considered by the court in determining whether to suspend the sentence. If the court suspends the sentence and places the defendant on probation, the provisions of KRS 532.045(3) to (7) shall apply.

(7) The authority granted in this section shall be exercised by the judge who imposed sentence on the defendant, unless he is unable to act and it appears that his inability to act should continue beyond the expiration of the term of the court. In such case, the judge who imposed sentence shall assign a judge to dispose of a motion filed under this section, or as prescribed by the rules and practices concerning the responsibility for disposition of criminal matters.

(8) The provisions of this section shall not apply where a sentence of death has been imposed.

(9) A defendant may file only one (1) motion for shock probation.

Section 3. KRS 439.267 is amended to read as follows:

(1) Subject to the provisions of *Section 1 of this Act,* KRS Chapter 439*,* and Chapters 500 to 534, any District Court, or any Circuit Court with respect to a defendant convicted in Circuit Court of a misdemeanor, may, upon motion of the defendant made not earlier than thirty (30) days after the defendant has been delivered to the keeper of the institution to which he has been sentenced, suspend the further execution of the sentence and place the defendant on probation upon terms as the court determines.

(2) The court shall consider any motion filed in accordance with subsection (1) of this section within sixty (60) days of the filing date of that motion, and shall enter its ruling within ten (10) days after considering the motion. The defendant may, in the discretion of the trial court, have the right to a hearing on any motion he may file, or have filed for him, that would suspend further execution of sentence. Any court order granting or denying a motion to suspend further execution of sentence is[~~ not~~] reviewable *as provided in Section 1 of this Act*.

(3) The authority granted in this section shall be exercised by the judge who imposed sentence on the defendant, unless he is unable to act and it appears that his inability to act should continue beyond the expiration of the term of the court. In this case, the judge who imposed sentence shall assign a judge to dispose of a motion filed under this section, or as prescribed by the rules and practices concerning the responsibility for disposition of criminal matters.

(4) If the defendant has been convicted of a misdemeanor offense under KRS Chapter 510, or criminal attempt to commit any of these offenses under KRS 506.010, prior to considering the motion to suspend the sentence, the court may, for a misdemeanor offense specified herein, and shall, for any felony offense specified in this subsection order an evaluation of the defendant to be conducted by the sex offender treatment program operated or approved by the Department of Corrections or the Department for Mental Health and Mental Retardation Services. The evaluation shall provide to the court a recommendation related to the risk of a repeat offense by the defendant and the defendant's amenability to treatment, and shall be considered by the court in determining whether to suspend the sentence. If the court suspends the sentence and places the defendant on probation, the provisions of KRS 532.045(3) to (7) shall apply.

(5) A defendant may file only one (1) motion for shock probation.

HB 471, AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act unless the context requires otherwise:

(1) "Building materials" mean lumber, construction tools, windows, and anything else used in the building or rebuilding of property;

(2) "Consumer food item" means any article used or intended for use for food, drink, confection, or condiment by a person or animal;

(3) "Emergency supplies" includes but is not limited to water, flashlights, radios, batteries, candles, blankets, soap, diapers, temporary shelters, tape, toiletries, plywood, nails, and hammers;

(4) "Gasoline" means any fuel used to power any motor vehicle or power tool;

(5) "Goods" has the same meaning as in KRS 355.2-105;

(6) "Housing" means any rental housing and includes any housing provided by a hotel or motel;

(7) "Local emergency" means a natural or man-made disaster or emergency resulting from a tornado, earthquake, flood, fire, riot, storm, or any other event for which a local emergency has been declared by the executive officer or governing body of a city, county, urban-county, charter county, or consolidated local government;

(8) "Medical supplies" includes but is not limited to prescription and nonprescription medications, bandages, gauze, isopropyl alcohol, and antibacterial products;

(9) "Person" has the same meaning as in KRS 446.010.

(10) "Repair or reconstruction services" means services performed by any person for repairs to residential or commercial property of any type that is damaged as a result of a natural or man-made disaster or emergency resulting from an event referred to in subsection (7) or (12) of this section;

(11) "Services" means work, labor, or services including services furnished in connection with the sale or repair of goods or real property or improvements thereto;

(12) "State of emergency" means a natural or man-made disaster resulting from a tornado, earthquake, flood, fire, riot, storm, act of war, threat of war, military action, the time of instability following a terrorist attack, or any other event for which a state of emergency has been proclaimed by the President of the United States or declared by the Governor. It shall also include the duration of a Condition Red as declared by the United States Department of Homeland Security under the Homeland Security Advisory System; and

(13) "Transportation, freight, and storage services" means any service that is performed by a person that contracts to move, store, or transport personal or business property or rents equipment for those purposes.

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) (a) For thirty (30) days following the proclamation or declaration of a state of emergency or local emergency or during a Condition Red as declared by the United States Department of Homeland Security under the Homeland Security Advisory System, the provisions of this subsection shall apply.

(b) No person shall sell or rent or offer to sell or rent, even without an actual sale or rental, a good or service listed in this paragraph for a price more than ten percent (10%) above a price charged by that person for that good or service in the thirty (30) days prior to the proclamation or declaration:

1. Consumer food items;
2 Goods or services used for emergency cleanup;
3. Emergency supplies;
4. Medical supplies;
5. Home heating oil;
6. Building materials;
7. Housing;
8. Transportation, freight, and storage services; or
9. Gasoline or other motor fuels.

(c) A person does not violate this subsection when that person increases a price, if the price increase is directly attributable to an additional cost imposed by a supplier of a good or to an additional cost for labor or materials used to provide a service, and the price represents no more than ten percent (10%) above the total of the cost to the person plus the markup customarily applied by that person for that good or service in the usual course of business in the thirty (30) days prior to the proclamation or declaration. In calculating additional costs, no allowance shall be made for the replacement price of the good or service if the person is reasonably assured of recouping the replacement costs as part of the price of subsequent sales of the merchandise.

(2) (a) For one hundred eighty (180) days following the proclamation or declaration of a state of emergency or local emergency or during a Condition Red as declared by the United States Department of Homeland Security under the Homeland Security Advisory System, the provisions of this subsection shall apply.

(b) No person shall sell or rent or offer to sell or rent, even without an actual sale or rental, any repair or reconstruction services for a price of more than ten percent (10%) above a price charged by that person for the service in the thirty (30) days prior to the proclamation or declaration.

(c) A person does not violate this subsection when that person increases a price, if the price increase is directly attributable to an additional cost imposed by a supplier of a good or to an additional cost for labor or materials used to provide a service, and the price represents no more than ten percent (10%) above the total of the cost to the person plus the markup customarily applied by that person for that good or service in the usual course of business in the thirty (30) days prior to the proclamation or declaration. In calculating additional costs, no allowance shall be made for the replacement price of the good or service if the person is reasonably assured of

recouping the replacement costs as part of the price of subsequent sales of the merchandise.

(3) The provisions of this section may be extended for additional thirty (30) day periods by a local governing body or the Governor if necessary to protect the lives, property, or welfare of the citizens.

(4) Any person offering to sell or rent goods or services covered in subsection (1) or (2) of this section at a reduced price in the thirty (30) days prior to the proclamation or declaration may use the price at which that person usually sells or rents the good or service to calculate the price under subsection (1) or (2) of this section.

(5) If a person did not sell or rent or offer to sell or rent a good or service referred to in subsection (1) or (2) of this section prior to the proclamation or declaration, the price at which a good or service was generally available in the trade area shall be used in determining if the person is in violation of this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) All of the remedies, powers, and duties provided for the Attorney General by KRS 367.190, 367.200, 367.210, 367.220, 367.230, 367.240, 367.250, 367.260, 367.270, 367.280, 367.290, and 367.300 appertaining to acts declared unlawful by KRS 367.170 shall apply with equal force and effect to acts declared unlawful by Sections 1 to 3 of this Act.

(2) Nothing in Sections 1 to 3 of this Act shall be construed to limit or restrict the exercise of powers or the performance of the duties of the Attorney General which he or she is authorized to exercise or perform under any other provision of law.

SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Any person who violates Section 2 of this Act shall be guilty of a Class A misdemeanor

for the first offense and a Class D felony for each subsequent offense.

The Committee Substitute to **HB 471** is as follows:

HB 471, AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act unless the context requires otherwise:

(1) "Building materials" means lumber, construction tools, windows, and anything else used in the building or rebuilding of property;

(2) "Consumer food item" means any article used or intended for use for food, drink, confection, or condiment by a person or animal;

(3) "Emergency supplies" includes but is not limited to water, flashlights, radios, batteries, candles, blankets, soap, diapers, temporary shelters, tape, toiletries, plywood, nails, and hammers;

(4) "Gasoline" means any fuel used to power any motor vehicle or power tool;

(5) "Goods" has the same meaning as in KRS 355.2-105;

(6) "Housing" means any rental housing and includes any housing provided by a hotel or motel;

(7) "Medical supplies" includes but is not limited to prescription and nonprescription medications, bandages, gauze, isopropyl alcohol, and antibacterial products;

(8) "Person" has the same meaning as in KRS 446.010.

(9) "Repair or reconstruction services" means services performed by any person for repairs to residential or commercial property of any type that is damaged as a result of a natural or man-made disaster or emergency resulting from an event referred to in subsection (11) of this section;

(10) "Services" means work, labor, or services including services furnished in connection with the sale or repair of goods or real property or improvements thereto;

(11) "State of emergency" means a natural or man-made disaster resulting from a tornado, earthquake, flood, fire, riot, storm, act of war, threat of war, military action, the time of instability following a terrorist attack, or any other event for which a state of emergency has been proclaimed by the President of the United States or declared by the Governor. It shall also include the duration of a Condition Red as declared by the United States Department of Homeland Security under the Homeland Security Advisory System; and

(12) "Transportation, freight, and storage services" means any service that is performed by a person that contracts to move, store, or transport personal or business property or rents equipment for those purposes.

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) (a) For thirty (30) days following the proclamation or declaration of a state of emergency or during a Condition Red as declared by the United States Department of Homeland Security under the Homeland Security Advisory System, the provisions of this subsection shall apply.

(b) No person shall sell or rent or offer to sell or rent, even without an actual sale or rental, a good or service listed

in this paragraph for a price more than ten percent (10%) above a price charged by that person for that good or service in the thirty (30) days prior to the proclamation or declaration:

1. Consumer food items;

2 Goods or services used for emergency cleanup;

3. Emergency supplies;

4. Medical supplies;

5. Home heating oil;

6. Building materials;

7. Housing;

8. Transportation, freight, and storage services; or

9. Gasoline or other motor fuels.

(c) A person does not violate this subsection when that person increases a price, if the price increase is directly attributable to an additional cost imposed by a supplier of a good or to an additional cost for labor or materials used to provide a service, and the price represents no more than ten percent (10%) above the total of the cost to the person plus the markup customarily applied by that person for that good or service in the usual course of business in the thirty (30) days prior to the proclamation or declaration. In calculating additional costs, no allowance shall be made for the replacement price of the good or service if the person is reasonably assured of recouping the replacement costs as part of the price of subsequent sales of the merchandise.

(2) (a) For one hundred eighty (180) days following the proclamation or declaration of a state of emergency or during a Condition Red as declared by the United States Department of Homeland Security under the Homeland Security Advisory System, the provisions of this subsection shall apply.

(b) No person shall sell or rent or offer to sell or rent, even without an actual sale or rental, any repair or reconstruction services for a price of more than ten percent (10%) above a price charged by that person for the service in the thirty (30) days prior to the proclamation or declaration.

(c) A person does not violate this subsection when that person increases a price, if the price increase is directly attributable to an additional cost imposed by a supplier of a good or to an additional cost for labor or materials used to provide a service, and the price represents no more than ten percent (10%) above the total of the cost to the person plus the markup customarily applied by that person for that good or service in the usual course of business in the thirty (30) days prior to the proclamation or declaration. In calculating additional costs, no allowance shall be made for the replacement price of the good or service if the person is reasonably assured of recouping the replacement costs as part of the price of subsequent sales of the merchandise.

(3) The provisions of this section may be extended for additional thirty (30) day periods by the Governor if necessary to protect the lives, property, or welfare of the citizens.

(4) Any person offering to sell or rent goods or services covered in subsection (1) or (2) of this section at a reduced price in the thirty (30) days prior to the proclamation or declaration may use the price at which that person usually sells or rents the good or service to calculate the price under subsection (1) or (2) of this section.

(5) If a person did not sell or rent or offer to sell or rent a good or service referred to in subsection (1) or (2) of this section prior to the proclamation or declaration, the price at which a good or service was generally available in the trade area shall be used in determining if the person is in violation of this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) All of the remedies, powers, and duties provided for the Attorney General by KRS 367.190, 367.200, 367.210, 367.220, 367.230, 367.240, 367.250, 367.260, 367.270, 367.280, 367.290, and 367.300 appertaining to acts declared unlawful by KRS 367.170 shall apply with equal force and effect to acts declared unlawful by Sections 1 to 3 of this Act.

(2) Nothing in Sections 1 to 3 of this Act shall be construed to limit or restrict the exercise of powers or the performance of the duties of the Attorney General which he or she is authorized to exercise or perform under any other provision of law.

SECTION 4. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

Any person who violates Section 2 of this Act shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.

Calendar

HB 130, 132, 360, HR 53, HB 62, 458, and **450** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Senate Message

Announcing passage: **SB 75, 109, 150,** and **161** (2:10 p.m.)

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 130, 360, 450, HR 53, HB 324,** and **371** have been posted for passage in the Regular Orders of the Day for February 19, 2004.

Orders of the Day

HB 92 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pasley moved that **HB 92** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 18, 2004, roll call on **HB 92** - Appendix.)

HB 92 was passed and the title agreed to.

Representative Pasley moved that the vote by which **HB 92** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 365 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McKee moved that **HB 365** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 18, 2004, roll call on **HB 365** - Appendix.)

HB 365 was passed and the title agreed to.

Representative McKee moved that the vote by which **HB 365** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 384 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nesler moved that **HB 384** be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 18, 2004, roll call on **HB 384** - Appendix.)

HB 384 was passed and the title agreed to.

Representative Nesler moved that the vote by which **HB 384** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 9, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved the adoption of the Committee Substitute to **HB 9**. Agreed.

Representative Adkins moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 9**. Agreed.

Representative Yonts moved that **HB 9**, by way of Committee Substitute, as amended be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See February 18, 2004, roll call on **HB 9** - Appendix.)

HB 9, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Yonts moved that the vote by which **HB 9**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 114 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Denham moved that **HCR 114** be adopted.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 18, 2004, roll call on **HCR 114** - Appendix.)

HCR 114 was adopted.

Representative Denham moved that the vote by which **HCR 114** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 176, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Coleman moved the adoption of the Committee Substitute to **HB 176**. Agreed.

Representative Coleman moved that **HB 176**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 18, 2004, roll call on **HB 176** - Appendix.)

HB 176, by way of Committee Substitute, was passed and the title agreed to.

Representative Coleman moved that the vote by which **HB 176**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 90 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved that **HJR 90** be adopted.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 18, 2004, roll call on **HJR 90** - Appendix.)

HJR 90 was adopted.

Representative Yonts moved that the vote by which **HJR 90** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 85, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of Floor Amendment No. 1 to **HB 85**. Agreed.

Representative Burch moved that **HB 85**, as amended, be passed.

On the roll call the vote was: **Yeas 58, Nays 38**. (See February 18, 2004, roll call on **HB 85** - Appendix.)

HB 85, as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 85**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 178, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Coleman moved the adoption of the Committee Substitute to **HB 178**. Agreed.

Representative Coleman moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 178**. Agreed.

Representative Coleman moved that **HB 178**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See February 18, 2004, roll call on **HB 178** - Appendix.)

HB 178, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Coleman moved that the vote by which **HB 178**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Speaker Richards moved the adoption of the following **HR 152**:

HR 152, A RESOLUTION honoring Kentucky's independent college and university students.

WHEREAS, Kentucky's non-profit, independent colleges and universities educate about 25,000 students annually; and

WHEREAS, independent college and university students graduate and join the Kentucky workforce as highly trained teachers, nurses, and other needed professionals; and

WHEREAS, independent college and university students participate in a broad range of community service activities, from home building for needy families to tutoring of school children; and

WHEREAS, independent college and university students are known for their integrity, honesty, and maintenance of the highest ethical standards; and

WHEREAS, many of Kentucky's leading citizens and public servants are proud graduates of Kentucky's independent colleges and universities;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby recognize the valuable contribution that independent college and university students make to the welfare of the Commonwealth.

Section 2. This honorable body encourages these outstanding students to complete their education, remain in Kentucky, and commit themselves to improving the quality of life for all citizens.

Section 3. When the House of Representatives adjourns this day, it does so in honor of the independent college and university students across this great Commonwealth.

There being no objection, **HR 152** was adopted.

Representative Adkins moved that the rules be suspended to reassign **HB 351** to the Committee on Appropriations and Revenue. Agreed.

Representative Adkins moved that the rules be suspended to reassign **HB 517** to the Committee on Judiciary. Agreed.

Representative Denham moved the adoption of the following **Legislative Citation No. 42**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory and honor of Leo P. Humphries and joins with Representative Mitchel Denham in expressing profound sympathy to the Humphries Family and all those who share in the loss of this highly-regarded citizen. Preceded in death by a son, Terry Lynn, and siblings, Ruby, Glenn, and Marshall, he is survived by his beloved wife, Jean Gilkison Humphries; sons, Roger, Dennis, and Mark; grandchildren, Randy, Sandy, Jason, Jeremy, and Katelyn; great-grandchildren, Ben, Corey, and Samantha; and, a host of other family members, friends and loved ones. This esteemed citizen, a retired manager of the Maysville branch of Columbia Gas Company; honorable World War II veteran of the United States Army; past president of the Maysville Rotary Club who was honored as a Paul Harris Fellow; and, a faithful member of the First Christian Church, is remembered on this day for the many and generous contributions he made to his family, his community, and to this fine Commonwealth. Leo P. Humphries will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, Kentucky, this eighteenth day of February, in the year two thousand and four.

Legislative Citation No. 42 was adopted without objection.

Representative Denham moved the adoption of the following **Legislative Citation No. 43**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory and honor of William D. Hitt and joins with Representative Mitchel Denham in expressing profound sympathy to the Hitt Family and all those who share in the loss of this highly-regarded citizen. He is survived by his beloved wife, Aletha Goodpaster Hitt; daughters, Sharon, Karen, and Donna; sisters, Betty Jane, Mary Leslie, and Joann; grandchildren, Amanda, Tara, Kyle, Tyler, and Chad; great-grandchildren, Bradley, Ashley, and Connor; and, a host of other family members, friends and loved ones. This esteemed citizen, a retired rural letter carrier for the United States Post Office; former owner and operator of Service City in Maysville, Kentucky; honorable Korean War veteran of the United States Navy; avid golfer and fan of the Mason County Royals; and, faithful member of the Moose Lodge, the DeKalb Lodge, and the Shannon United Methodist Church, is remembered on this day for the many and generous contributions he made to his family, his community, and to this fine Commonwealth. William D. Hitt will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, Kentucky, this eighteenth day of February, in the year two thousand and four.

Legislative Citation No. 43 was adopted without objection.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 534, by Representative Crimm: AN ACT relating to motor vehicle insurance.

HB 535, by Representative Barrows: AN ACT relating to the Capitol restoration trust fund.

HB 536, by Representative Stacy: AN ACT relating to driving under the influence.

HB 537, by Representative B. Smith: AN ACT relating to mines and minerals.

HB 538, by Representative Nunn: AN ACT relating to the conduct and financing of gubernatorial elections.

HB 539, by Representative Stein: AN ACT relating to the official theatre pipe organ of Kentucky.

HB 540, by Representatives Buckingham, Cherry, Geveden, Coleman, Nelson, and J. Thompson: AN ACT relating to the safety and well-being of students.

HB 541, by Representatives Jenkins, Wayne, Stein, Gray, Cherry, Miller, Marzian, Wilkey, Graham, P. Clark, Horlander, Meeks, Burch, Sims, Riggs, Crenshaw, and De. Butler: AN ACT relating to hazardous duty retirement.

HB 542, by Representative Westrom: AN ACT relating to human services.

HCR 161, by Representatives Gray, Burch, Cherry, Jenkins, J. Adams, Hall, Gooch, Buckingham, Nelson, Collins, Pullin, Palumbo, and T. Thompson: A CONCURRENT RESOLUTION urging the United States congress to enact legislation to exclude a portion of retirement income from federal income tax.

HR 162, by Representative De. Butler: A RESOLUTION designating March 6, 2004, as Louisville Water Company Day in the Commonwealth of Kentucky.

HR 163, by Representative Upchurch: A RESOLUTION requesting and urging the congressional delegation from the Commonwealth of Kentucky to support legislation making the federal tax cuts permanent.

HR 164, by Representative Upchurch: A RESOLUTION requesting and urging the congressional delegation from the Commonwealth of Kentucky to support legislation to abolish the federal estate tax permanently.

HR 165, by Representative Upchurch: A RESOLUTION requesting the Congressional Delegation of the Commonwealth of Kentucky to end the abuse of tort law against the firearms industry.

HR 166, by Representative Upchurch: A RESOLUTION requesting the United States Senators of the Commonwealth of Kentucky support a floor vote for President Bush's judicial nominees.

HCR 167, by Representative Westrom: A CONCURRENT RESOLUTION directing the Legislative Research Commission to study and make recommendations to improve the effectiveness of cervical cancer screening.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Local Government: **HCR 144, HB 510, 503**

Natural Resources: **HB 468**

Judicial: **HB 232, 343, 500, HCR 112, HJR 79, HB 111, 363, 520**

Motions, Petitions, and Communications (Continued)

Representative Feeley moved that **HB 219** and **HB 246** be withdrawn. Agreed.

Representative DeWeese moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative DeWeese moved that he be recorded as voting "yea" on **HB 92**. Agreed.

Representative Nesler moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Nesler moved that he be recorded as voting "yea" on **HB 176**. Agreed.

Representative Wilkey moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Wilkey moved that he be recorded as voting "yea" on **HB 178** and **HB 85**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 404** and **HJR 98**. Agreed.

Floor Amendments

Floor Amendment No. 1 to **HB 53**, by Representative Marcotte:

HB 53, On page 13, after line 22 by inserting the following text:

"Section 11. Sections 1 to 10 of this Act take effect upon written certification to the reviser of statutes by the secretary of the Cabinet for Natural Resources and Environmental Protection, or by the successor officer to that secretary, that the United States Environmental Protection Agency has published a notice of approval of a revision to the Kentucky State Implementation Plan (SIP) incorporating changes to that plan consistent with the amendments contained in Sections 1 to 10 of this Act.

Section 12. Within thirty (30) days following the effective date of this section the Cabinet for Natural Resources and Environmental Protection or its successor agency shall prepare and submit for approval by the United States Environmental Protection Agency, a revision to the Kentucky State Implementation Plan (SIP) meeting the requirements of Section 110 of the federal Clean Air Act and incorporating this change in the approved vehicle exhaust testing program.

Section 13. Whereas delays are inherent in United States Environmental Protection Agency reviews and decisions relating to State Implementation Plan amendments, an emergency is declared to exist, and Section 12 of this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law."

Floor Amendment No. 1 to **HB 62**, by Representative Denham:

HB 62, On page 3 by deleting lines 3 through 10 in their entirety; and

On page 3, line 11 by deleting "*(3)*" and by inserting "*(2)*" in lieu thereof.

Floor Amendment No. 1 to the Committee Substitute to **HB 450**, by Representative Gooch:

HB 450, On page 38, after line 17, by inserting the following:

" PART VI

MISCELLANEOUS PROVISIONS

SECTION 40. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) "Gross income" includes the proceeds of a punitive damages judgment in a civil action for medical malpractice in the provision of health care against a health care provider, as defined in KRS 214.450.

(2) Any other provision of this chapter to the contrary notwithstanding, and in lieu of the tax levied under KRS 141.020, the rate of taxation on the proceeds of a judgment specified in subsection (1) of this section is one hundred percent (100%).

(3) All tax revenue received as a result of the tax provided for in this section shall be placed in a special account in the General Fund of the State Treasury, which shall not lapse, and which shall be expended as appropriated by the General Assembly solely for the purpose of funding and defraying the costs of Kentucky Access, as created in KRS 304.17B-005.".

Floor Amendment No. 2 to the Committee Substitute to **HB 450**, by Representative Gooch:

HB 450, On page 38, after line 17, by inserting the following:

" PART VI

MISCELLANEOUS PROVISIONS

SECTION 40. A NEW SECTION OF KRS CHAPTER 372 IS CREATED TO READ AS FOLLOWS:

Any provision of a contract for the provision of legal services in a medical malpractice case whereby the client is required to pay or relinquish to the attorney or firm rendering the representation more than twenty percent (20%) of the damages recovered for pain and suffering shall be void as against public policy.".

Floor Amendment No. 1 to the Committee Substitute to **HB 81**, by Representative Nunn:

HB 81, On page 13, after line 10, by inserting the following:

"Section 3. KRS 344.010 is amended to read as follows:

In this chapter:

(1) "Person" includes one (1) or more individuals, labor organizations, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, fiduciaries, receivers, or other legal or commercial entity; the state, any of its political or civil subdivisions or agencies.

(2) "Commission" means the Kentucky Commission on Human Rights.

(3) "Commissioner" means a member of the commission.

(4) *(a)* "Disability" means, with respect to an individual:

1.[~~(a)~~] A physical or mental impairment that substantially limits one (1) or more of the major life activities of the individual;

2.[~~(b)~~] A record of such an impairment; or

3.[~~(c)~~] Being regarded as having such an impairment.

Persons with current or past controlled substances abuse or alcohol abuse problems and persons excluded from coverage by the Americans with Disabilities Act of 1990 (P.L. 101-336) shall be excluded from this section.

(b) The term includes but is not limited to sensory, cognitive, or neurological deficit or impairment. The term includes but is not limited to a person with a learning disorder, dyslexia, any pervasive developmental disorder, autism, or asperger syndrome.

(5) "Discrimination" means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice of differentiation or preference in the treatment of a person or persons, or the aiding, abetting, inciting, coercing, or compelling thereof made unlawful under this chapter.

(6) "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest in the above.

(7) "Housing accommodations" includes improved and unimproved property and means any building, structure, lot or portion thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied as the home or residence of one (1) or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building or structure.

(8) "Real estate operator" means any individual or combination of individuals, labor organizations, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees in bankruptcy, receivers, or other legal or commercial entity, the county, or any of its agencies, that is engaged in the business of selling, purchasing, exchanging, renting, or leasing real estate, or the improvements thereon, including options, or that derives income, in whole or in part, from the sale, purchase, exchange, rental, or lease of real estate; or an individual employed by or acting on behalf of any of these.

(9) "Real estate broker" or "real estate salesman" means any individual, whether licensed or not, who, on behalf of others, for a fee, commission, salary, or other valuable consideration, or who with the intention or expectation of receiving or collecting the same, lists, sells, purchases, exchanges, rents, or leases real estate, or the improvements thereon, including options, or who negotiates or attempts to negotiate on behalf of others such an activity; or who advertises or holds himself out as engaged in these activities; or who negotiates or attempts to negotiate on behalf of others a loan secured by mortgage or other encumbrance upon a transfer of real estate, or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he undertakes to promote the sale, purchase, exchange, rental, or lease of real estate through its listing in a publication issued primarily for this purpose; or any person employed by or acting on behalf of any of these.

(10) "Financial institution" means bank, banking organization, mortgage company, insurance company, or other lender to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair, maintenance, or improvement of real property, or an individual employed by or acting on behalf of any of these.

(11) "Licensing agency" means any public or private organization which has as one (1) of its duties the issuing of licenses or the setting of standards which an individual must hold or must meet as a condition to practicing a particular trade or profession or to obtaining certain employment within the state or as a condition to competing effectively with an individual who does hold a license or meet the standards.

(12) "Credit transaction" shall mean any open or closed end credit transaction whether in the nature of a loan, retail installment transaction, credit card issue or charge, or otherwise, and whether for personal or for business purposes, in which a service, finance, or interest charge is imposed, or which provides for repayment in scheduled payments, when such credit is extended in the course of the regular course of any trade or commerce, including but not limited to transactions by banks, savings and loan associations, or other financial lending institutions of whatever nature, stock brokers, or by a merchant or mercantile establishment which as part of its ordinary business permits or provides that payment for purchases of property or services therefrom may be deferred.

(13) "To rent" means to lease, to sublease, to let, or otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(14) "Family" includes a single individual.

(15) (a) "Familial status" means one (1) or more individuals who have not attained the age of eighteen (18) years and are domiciled with:

1. A parent or another person having legal custody of the individual or individuals; or

2. The designee of a parent or other person having custody, with the written permission of the parent or other person.

(b) The protection afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.

(16) "Discriminatory housing practice" means an act that is unlawful under KRS 344.360, 344.367, 344.370, 344.380, or 344.680.".

Floor Amendment No. 1 to **HB 261**, by Representative Feeley:

HB 261, On page 1, line 16, after the second comma, and continuing through the end of line 18, by deleting all new language, and by inserting the following in lieu thereof:

"*except that the sale or serving of any beverages to students in competition with the School Breakfast Program and the National School Lunch Program shall be prohibited on the school campus during the school day until thirty (30) minutes after the close of the last lunch serving period unless a waiver of this prohibition has been obtained from the Kentucky Board of Education.*"; and

On page 5, line 15, by inserting "*and*" after the semi-colon; and

On page 5, by deleting all text on lines 16 through 18; and

On page 5, line 19, by deleting "*(d)*" and inserting "*(c)*" in lieu thereof.

Floor Amendment No. 3 to the Committee Substitute to **HB 450**, by Representative Riner:

HB 450, On page 32, between lines 6 and 7, insert the following:

"*(2) "Medical error" means an error that occurs within the health care system as a result of the failure of a planned action to be completed as intended or the use of a wrong plan to achieve an aim;*" and

On page 32, line 7, delete "*(2)*" and insert "*(3)*" in lieu thereof; and

On page 32, line 9, delete "*(3)*" and insert "*(4)*" in lieu thereof; and

On page 32, line 10, after "*events*" insert "*, medical errors,*; and

On page 32, line 12, delete "*(4)*" and insert "*(5)*" in lieu thereof; and

On page 32, line 16, delete "*(5)*" and insert "*(6)*" in lieu thereof; and

On page 32, line 27, after "*reports*" insert "*, unanticipated adverse events, and medical errors*"; and

On page 33, line 3, after "*event*" insert "*, unanticipated adverse events, and medical errors*"; and

On page 33, line 23, after "*events*" insert "*, unanticipated adverse events, and medical errors*"; and

On page 33, line 25, after "*events*" insert "*, unanticipated adverse events, and medical errors*"; and

On page 34, line 1, after "*events*" insert "*, unanticipated adverse events, and medical errors*"; and

On page 34, line 8, after "*event*" insert "*, unanticipated adverse events, and medical errors*"; and

On page 35, line 23, after "*event*" insert "*, unanticipated adverse events, and medical errors*"; and

On page 36, line 6, delete after "*sentinel event*", delete "*or*"; and insert an underlined comma in lieu thereof; and

On page 36, line 6, after "*adverse event*" insert "*, or medical error*".

Floor Amendment No. 1 to the Committee Substitute to **HB 161**, by Representative Stein:

HB 161, On page 1, line 16, delete "*and*"; and

On page 1, line 17, delete "*.*" and insert in lieu thereof "*; and*" and

On page 1, , after line 17, insert "*(l) The Deputy Public Advocate of Kentucky or his or her designee; and*
(m) A representative of the Commonwealth's Attorneys Association."

Floor Amendment No. 1 to **HB 413**, by Representative Upchurch:

HB 413, On Page 3, line 3, after "*year.*", by inserting and underlining "*The total number of local governments to receive funds under this provision shall include that number of counties which do not contain an incorporated area within the county. The amount of funds to be distributed to these counties shall be calculated on a per capita basis according to the number of deputy sheriffs within the sheriff's department and shall be paid to the sheriff's department for law enforcement activities.*".

Floor Amendment No. 4 to the Committee Substitute to **HB 450**, by Representative Riner:

HB 450, On page 38, insert the following after line 17:

"SECTION 40. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Health Services shall collect the following hospital data for dissemination to inform consumers statewide regarding health care decisions:

(a) Utilization and performance information to promote quality improvement activities;

(b) Statewide performance data comparing utilization and selected performance measures to accepted norms or benchmarks developed by recognized experts; and

(c) Other hospital data identified by the Cabinet for Health Services through the promulgation of an administrative regulation.

(2) The Cabinet for Health Services shall prepare the collected hospital data for dissemination. The cabinet shall coordinate its efforts with programs of the national forum for health care quality measurements and reporting. The cabinet shall provide each hospital with a copy of the hospital data to be disseminated for the hospital. The hospital shall have the opportunity to inform the cabinet of any factual inaccuracies, which shall be corrected by the cabinet prior to dissemination to the public. ".

Floor Amendment No. 2 to the Committee Substitute to **HB 357**, by Representative Rand:

HB 357, On page 1, line 21, after the word "*vehicle*" delete the word "*shall*" and insert in lieu thereof "*may*"; and

On page 1, line 25, after the word "*vehicle*" and before the period "*.*" insert "*, unless issuing a citation would be in conflict with the law enforcement agency's internal policies and procedures*"; and

On page 2, line 3, after the word "*within*" delete "*twenty-four (24) hours*" and insert in lieu thereof "*ten (10) business days*"; and

On page 2, line 4, delete "*issuing the citation*" and insert in lieu thereof "*the date the law enforcement officer ordered the abandoned vehicle to be towed*"; and

On page 4, line 20, after the word "*Act*" delete the remainder of line 20 in its entirety and insert in lieu thereof "*and*"; and

On page 4, line 21, delete the word "*vehicle*".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and a Resolution:

HB 298, Representatives Pasley and A. Arnold

HB 299, Representatives Pasley and A. Arnold

HB 336, Representatives Hoffman and Nunn

HB 339, Representative Nunn

HB 341, Representative Marzian

HB 372, Representative Cherry

HB 384, Representative McKee

HB 435, Representative Bruce

HB 436, Representative Bruce

HB 450, Representative Nunn

HB 483, Representative Marzian

HB 540, Representative Miller

HR 139, Representatives Bather and J. Thompson

Announcements

The following meetings were announced:

Budget Review Subcommittee on Human Resources: upon adjournment, Room 129

Committee on Economic Development: Thursday, February 19, 2004, meeting canceled

Committee on Transportation: with the Senate Committee, upon adjournment, Room 131

Committee on Elections, Constitutional Amendments, and Intergovernmental Relations: Thursday, February 19, 2004, 10:00 a.m.

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 2:00 p.m., Thursday, February 19, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 2:00 p.m., Thursday, February 19, 2004, was adopted by voice vote.

THURSDAY, FEBRUARY 19, 2004

THIRTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Father Terry Bradshaw, St. Athanasius Church, Louisville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Weaver and Siler.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 18, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage: **SB 52, 60, 71, 133, 160,** and **HB 108** (2:10 p.m.)

Representative Palumbo moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Palumbo moved the adoption of the following **Legislative Citation No. 50**.

The House of Representatives of the Commonwealth of Kentucky hereby pays most ardent tribute to Amelia Brown for the phenomenal perseverance and enthusiasm that she continues to demonstrate on behalf of the large number of Kentucky citizens awaiting organ transplants. A graduate of Monroe County High School and a recent graduate of the University of Kentucky, Ms. Brown coordinated UK's 2003 Gift of Life Challenge, a unique annual endeavor which pits UK against rival University of Louisville in a competition to sign up the most potential organ donors which resulted in UK winning the competition for the third consecutive year and in the two universities garnering more than 2,500 signatures of potential donors. Diagnosed with severe liver failure over three years ago, Ms. Brown possesses a profound understanding of the apprehension and concern associated with waiting for a transplant. Though her doctors initially told her to keep her expectations low regarding the quality of life that she could expect to enjoy prior to a transplant, Ms. Brown has exceeded all expectations for success, maintaining a high level of involvement in the university during her years as a student; graduating from UK on December 12, 2003, with a degree in Family and Consumer Sciences; and, recently embarking upon a new job as a Fayette County Cooperative Extension Agent. Inasmuch as this phenomenal young lady has truly demonstrated what can be accomplished when one maintains unwavering faith and a positive outlook on life and when one utilizes one's difficult experiences for the common good, the members of this august body are honored to join Representative Ruth Ann Palumbo and Representative James R. Comer, Jr., in commending Amelia Brown for the outstanding example of courage and integrity that she continues to set for her fellow citizens and in extending to her best wishes for many future years of happiness and good health. Done in Frankfort, Kentucky, this nineteenth day of February, in the year

Legislative Citation No. 50 was adopted without objection.

Introductions of Bills and Resolutions

HB 543, by Representative Marcotte: AN ACT relating to mining.

HB 544, by Representative Lindsay: AN ACT relating to county law libraries.

HB 545, by Representative Riggs: AN ACT relating to the replacement of life insurance contracts and annuities.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 108** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:25 p.m.)

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HR 163, 164**

Banking and Insurance: **HB 534**

Education: **HB 540**

Elections, Constitutional Amendments, and Intergovernmental Relations: **HB 538**

Health and Welfare: **HB 542, HCR 167**

Judiciary: **HB 536, HR 165, 166**

Licensing and Occupations: **SB 75**

Local Government: **SB 109**

Natural Resources and Environment: **HB 537**

State Government: **HB 535, 541, HCR 161, SB 150**

Tourism Development and Energy: **HB 539, SB 161**

House Floor: **HR 162**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Judiciary: **HB 517**

Banking and Insurance: **HB 507, 508, 509**

Report of Committees

The Committee on Health and Welfare reported **HB 262**, with Committee Substitute attached thereto, **HB 400**, with Committee Substitute attached thereto, **HB 477**, and **HJR 136** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 262, AN ACT relating to accessible electronic information for the disabled, and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 163 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that:

(1) Approximately 874,000 Kentuckians have disabilities, including blindness or other print impairments, that prevent them from using conventional print material;

(2) Kentucky fulfills an important responsibility by providing books and magazines prepared in Braille, audio, and large-type formats to eligible blind and disabled persons;

(3) The technology, transcription methods, and means of distribution used for these materials are labor-intensive and cannot support rapid dissemination to individuals in rural and urban areas throughout the state;

(4) Lack of direct and prompt access to information included in newspapers, magazines, newsletters, schedules, announcements, and other time-sensitive materials limits educational, employment, and independent opportunities, literacy, and full participation in society by blind and disabled persons;

(5) This limitation can be overcome through the use of high-speed computer and telecommunications technology, combined with customized software, providing a practical and cost-effective way to convert electronic text-based information, including newspapers, into synthetic speech suitable for statewide distribution and accessible through a touch-tone telephone with modern telecommunications technology;

(6) Low telecommunications rates make distribution of electronic text-based information to eligible users both efficient and cost-effective for the state;

(7) Federal funds have been used to develop the technology and infrastructure needed for statewide toll-free access to daily newspapers and other timely information of local, state, and national interests, providing an efficient and cost-effective means of reader registration, content acquisition, and intrastate telecommunications support; and

(8) Use of this accessible electronic information service will enhance Kentucky's efforts to meet the needs of blind and disabled citizens for access to information that is otherwise available in print, thereby reducing isolation and supporting full integration and equal access for such individuals.

SECTION 2. A NEW SECTION OF KRS CHAPTER 163 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act, unless the context requires otherwise:

(1) "Accessible electronic information service" means news and other timely information, including newspapers, provided to eligible individuals using high-speed computers and telecommunications technology for acquisition of content and rapid distribution in a form appropriate for use by those individuals; and

(2) "Blind and disabled persons" means those individuals who are eligible for library loan services through the Library of Congress and the Department for the Blind pursuant to 36 C.F.R. sec. 701.10(b).

SECTION 3. A NEW SECTION OF KRS CHAPTER 163 IS CREATED TO READ AS FOLLOWS:

(1) The Accessible Electronic Information Service Program is created and shall be administered by a nonprofit entity selected by the Department for the Blind through a state bidding process. The program shall provide:

(a) Intrastate access for eligible persons to read daily newspapers using a touch-tone telephone, thereby producing audio editions by use of computer; and

(b) A means of program administration and reader registration on the Internet.

(2) The program shall:

(a) Provide accessible electronic information services for all eligible blind and disabled persons as defined by subsection (2) of Section 2 of this Act;

(b) Make maximum use of available state, federal, and other funds by obtaining grants or in-kind support from appropriate programs and securing access to low-cost interstate rates for telecommunications by reimbursement or otherwise.

(3) In the competitive bidding process used to select the nonprofit entity, priority shall be given to an entity that has previously provided accessible electronic information services to the blind and disabled in Kentucky, and that has the existing technological infrastructure to provide these services.

(4) The nonprofit entity that administers the accessible electronic information services program shall submit an annual report by October 1 of each year to the Department for the Blind of all services provided. The report shall include but not be limited to:

(a) An accounting of funds received;

(b) The types and numbers of people served;

(c) The frequency of which services were accessed; and

(d) Recommendations for improvement of the program.

(5) The Department for the Blind shall prepare an annual report by November 1 of each year that includes the complete report received by the nonprofit entity, and any other information and recommendations of the department for the improvement of the program. This report shall be submitted to the Governor and the Legislative Research Commission.

SECTION 4. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) To support the program created under Section 3 of this Act the Public Service Commission shall require all local exchange telecommunications companies to impose periodic surcharges on bills rendered to all local exchange telecommunications company providers.

(2) The Public Service Commission, in consultation with the entity administering the program, shall annually determine the amount of the surcharge based on the amount of funding necessary to support the program created under Section 3 of this Act.

(3) The amount of the surcharge may be computed as a portion of any other surcharge required under existing law, order, or regulation, but shall not increase the surcharge by more than two cents ($0.02) per line each month.

(4) Local exchange telecommunications companies shall remit the amount received from the surcharge to the entity administering the program, in accordance with a schedule determined by the Public Service Commission not to exceed the amount of contracted services as determined in the competitive bidding process. Any excess funds shall be transmitted by the Department for the Blind for use in other public assistance programs administered by the department.

Section 5. This Act shall be known as the "Accessible Electronic Information Act."

The Committee Substitute to **HB 262** is as follows:

HB 262, AN ACT relating to accessible electronic information for the disabled, and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 163 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that:

(1) Approximately 874,000 Kentuckians have disabilities, including blindness or other print impairments, that prevent them from using conventional print material;

(2) Kentucky fulfills an important responsibility by providing books and magazines prepared in Braille, audio, and large-type formats to eligible blind and disabled persons;

(3) The technology, transcription methods, and means of distribution used for these materials are labor-intensive and cannot support rapid dissemination to individuals in rural and urban areas throughout the state;

(4) Lack of direct and prompt access to information included in newspapers, magazines, newsletters, schedules, announcements, and other time-sensitive materials limits educational, employment, and independent opportunities, literacy, and full participation in society by blind and disabled persons;

(5) This limitation can be overcome through the use of high-speed computer and telecommunications technology, combined with customized software, providing a practical and cost-effective way to convert electronic text-based information, including newspapers, into synthetic speech suitable for statewide distribution and accessible through a touch-tone telephone with modern telecommunications technology;

(6) Low telecommunications rates make distribution of electronic text-based information to eligible users both efficient and cost-effective for the state;

(7) Federal funds have been used to develop the technology and infrastructure needed for statewide toll-free access to daily newspapers and other timely information of local, state, and national interests, providing an efficient and cost-effective means of reader registration, content acquisition, and intrastate telecommunications support; and

(8) Use of this accessible electronic information service will enhance Kentucky's efforts to meet the needs of blind and disabled citizens for access to information that is otherwise available in print, thereby reducing isolation and supporting full integration and equal access for such individuals.

SECTION 2. A NEW SECTION OF KRS CHAPTER 163 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act, unless the context requires otherwise:

(1) "Accessible electronic information service" means news and other timely information, including newspapers, provided to eligible individuals using high-speed computers and telecommunications technology for acquisition of content and rapid distribution in a form appropriate for use by those individuals; and

(2) "Blind and disabled persons" means those individuals who are eligible for library loan services through the Library of Congress and the Department for the Blind pursuant to 36 C.F.R. sec. 701.10(b).

SECTION 3. A NEW SECTION OF KRS CHAPTER 163 IS CREATED TO READ AS FOLLOWS:

(1) The Accessible Electronic Information Service Program is created and shall be administered by a nonprofit entity selected by the Department for the Blind through a state bidding process. The program shall provide:

  (a) Intrastate access for eligible persons to read daily newspapers using a touch-tone telephone, thereby producing audio editions by use of computer; and

  (b) A means of program administration and reader registration on the Internet.

(2) The program shall:

  (a) Provide accessible electronic information services for all eligible blind and disabled persons as defined by subsection (2) of Section 2 of this Act;

  (b) Make maximum use of available state, federal, and other funds by obtaining grants or in-kind support from appropriate programs and securing access to low-cost interstate rates for telecommunications by reimbursement or otherwise.

(3) In the competitive bidding process used to select the nonprofit entity, priority shall be given to an entity that has previously provided accessible electronic information services to the blind and disabled in Kentucky, and that has the existing technological infrastructure to provide these services.

(4) The nonprofit entity that administers the accessible electronic information services program shall submit an annual report by October 1 of each year to the Department for the Blind of all services provided. The report shall include but not be limited to:

  (a) An accounting of funds received;

  (b) The types and numbers of people served;

  (c) The frequency of which services were accessed; and

  (d) Recommendations for improvement of the program.

(5) The Department for the Blind shall prepare an annual report by November 1 of each year that includes the complete report received by the nonprofit entity, and any other information and recommendations of the department for the improvement of the program. This report shall be submitted to the Governor and the Legislative Research Commission.

SECTION 4. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) To support the program created under Section 3 of this Act the Public Service Commission shall require all local exchange telecommunications companies to impose periodic surcharges on bills rendered to all local exchange telecommunications company customers.

(2) The Public Service Commission, in consultation with the entity administering the program, shall annually determine the amount of the surcharge based on the amount of funding necessary to support the program created under Section 3 of this Act.

(3) The amount of the surcharge may be computed as a portion of any other surcharge required under existing law, order, or regulation, but shall not increase the surcharge by more than two cents ($0.02) per line each month.

(4) Local exchange telecommunications companies shall remit the amount received from the surcharge to the entity administering the program, in accordance with a schedule determined by the Public Service Commission not to exceed the amount of contracted services as determined in the competitive bidding process.

Section 5. This Act shall be known as the "Accessible Electronic Information Act."

HB 400, AN ACT relating to vital statistics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 213.141 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, the cabinet shall prescribe by regulation a fee not to exceed five dollars ($5), to be paid for certified copies of certificates or records, or for a search of the files or records when no copy is made, or for copies or information provided for research, statistical, or administrative purposes.

(2) The cabinet shall prescribe by administrative regulation pursuant to KRS Chapter 13A a fee not to exceed ten dollars ($10) to be paid for a certified copy of a record of a birth, three dollars ($3) of which shall be used by the Cabinet for Health Services or the Cabinet for Families and Children for the sole purpose of contracting for the operation of private, not-for-profit, self-help, education, and support groups for parents who want to prevent or cease physical, sexual, or mental abuse of children, and one dollar ($1) of which shall be used by the Division of Maternal and Child Health to pay for amino acid modified preparations and low-protein modified food products for the treatment of inherited metabolic diseases listed in KRS 205.560(1)(c), if:

(a) The amino acid modified preparations or low-protein modified food products are prescribed for the therapeutic treatment of inherited metabolic diseases listed in KRS 205.560(1)(c) and are administered under the direction of a physician; and

(b) The affected person's amino acid modified formula and foods are not covered under any public or private health benefit plan.

(3) Fees collected under this section by the state registrar shall be used to help defray the cost of administering the system of vital statistics.

(4) *(a)* No fee or compensation shall be allowed or paid for furnishing certificates of birth or death required in support of any claim against the government for compensation, insurance, back pay, or other allowances or benefits for any person who has at any time served as a member of the Army, Navy, Marine Corps, or Air Force of the United States *or as a member of the Kentucky National Guard*.

(b) No fee or compensation shall be allowed or paid for furnishing a certificate of birth to a person identified in paragraph (a) of this subsection who has received deployment orders during the sixty (60) days prior to the furnishing of the certificate.

(5) The cabinet shall notify the State Board of Elections monthly of the name, address, birthdate, sex, race, and Social Security number of residents of the Commonwealth who died during the previous month. This data shall include only those persons who were over the age of eighteen (18) years at the date of death. No fee or compensation shall be allowed for furnishing these lists.

The Committee Substitute to **HB 400** is as follows:

HB 400, AN ACT relating to vital statistics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 213.141 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, the cabinet shall prescribe by regulation a fee not to exceed five dollars ($5), to be paid for certified copies of certificates or records, or for a search of the files or records when no copy is made, or for copies or information provided for research, statistical, or administrative purposes.

(2) The cabinet shall prescribe by administrative regulation pursuant to KRS Chapter 13A a fee not to exceed ten dollars ($10) to be paid for a certified copy of a record of a birth, three dollars ($3) of which shall be used by the Cabinet for Health

Services or the Cabinet for Families and Children for the sole purpose of contracting for the operation of private, not-for-profit, self-help, education, and support groups for parents who want to prevent or cease physical, sexual, or mental abuse of children, and one dollar ($1) of which shall be used by the Division of Maternal and Child Health to pay for amino acid modified preparations and low-protein modified food products for the treatment of inherited metabolic diseases listed in KRS 205.560(1)(c), if:

(a) The amino acid modified preparations or low-protein modified food products are prescribed for the therapeutic treatment of inherited metabolic diseases listed in KRS 205.560(1)(c) and are administered under the direction of a physician; and

(b) The affected person's amino acid modified formula and foods are not covered under any public or private health benefit plan.

(3) Fees collected under this section by the state registrar shall be used to help defray the cost of administering the system of vital statistics.

(4) ***(a)*** No fee or compensation shall be allowed or paid for furnishing certificates of birth or death required in support of any claim against the government for compensation, insurance, back pay, or other allowances or benefits for any person who has at any time served as a member of the Army, Navy, Marine Corps, or Air Force of the United States.

(b) No fee or compensation shall be allowed or paid for furnishing a certificate of birth to a member of the Kentucky National Guard who has received deployment orders during the sixty (60) days prior to the furnishing of the certificate.

(5) The cabinet shall notify the State Board of Elections monthly of the name, address, birthdate, sex, race, and Social Security number of residents of the Commonwealth who died during the previous month. This data shall include only those persons who were over the age of eighteen (18) years at the date of death. No fee or compensation shall be allowed for furnishing these lists.

HB 477, AN ACT relating to the asset forfeiture funds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.435 is amended to read as follows:

(1) There is created a trust and revolving fund in the executive branch of state government to be known as the "Asset Forfeiture Trust Fund" referred to in this section as the "trust fund."

(2) The trust fund shall consist of proceeds from sale of property forfeited to the Commonwealth pursuant to KRS 218A.410, any moneys as may be appropriated by the General Assembly, and any investment interest earned on the fund. The moneys in this fund are intended to supplement any funds appropriated by the General Assembly to the agency which will receive disbursements from the trust fund as provided in this section.

(3) The trust fund shall be managed by the state Office for Investment and Debt Management and all moneys in excess of the amount to be disbursed in a given fiscal year shall be invested to maximize returns. The principal and any interest earnings of the trust fund shall at no time lapse to the general fund.

(4) The trust fund shall be administered and audited by the Justice Cabinet. The secretary of justice or his designee shall promulgate administrative regulations necessary to further the purposes of KRS 218A.405 to 218A.460.

(5) The trust fund shall be disbursed in accordance with the provisions of subsection (6) of this section. All interest accumulated on the fund shall immediately be available for disbursement to the Justice Cabinet for costs associated with administration of the fund.

(6) The Justice Cabinet shall, upon advice from the Office for Investment and Debt Management, allocate the moneys in the fund quarterly, on a percentage basis, as provided in subsection (7) of this section.

(7) The principal of the trust fund shall be distributed as follows:

(a) Eighteen percent (18%) of the funds received in any fiscal year shall be allocated to the unified prosecutorial system to be disbursed by the Attorney General to those Commonwealth's attorneys or county attorneys who have participated in the forfeiture case;

(b) Thirty-six percent (36%) of the funds received in any fiscal year shall be allocated to the Cabinet for Health Services to be used solely for the purpose of drug and alcohol abuse education, prevention, and treatment;

(c) Thirty-six percent (36%) of the funds received in any fiscal year shall be allocated to the Department of Corrections to be used solely for programs related to drug enforcement and incarceration; and

(d) Ten percent (10%) of the funds received in any fiscal year shall be allocated to the Justice Cabinet to be used solely for the purpose of: training related to asset forfeiture; printing program-related training materials, such as manuals or handbooks; or payments to state or local agencies for programs relative to crime prevention, drug abuse prevention, general law enforcement purposes, or other similar purposes relating to drug enforcement.

(8) The Attorney General, the secretary of the Cabinet for Health Services, the commissioner of the Department of

Corrections, and the secretary of the Justice Cabinet or their designees shall each promulgate administrative regulations which itemize the programs on which the moneys allocated from the trust fund to their respective agencies shall be spent and the method by which those moneys shall be disbursed to local entities.

(9) On July 13, 1990, each state and local law enforcement agency which seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to being eligible for the receipt of grants from the trust fund, adopt policies relating to the seizure, maintenance, storage, and care of property pending forfeiture which are in compliance with or which substantially comply with the model policy for seizure of forfeitable assets by law enforcement agencies published by the Department of Criminal Justice Training. However, a state or local law enforcement agency may adopt policies that are more restrictive on the agency than those contained in the model policy and that fairly and uniformly implement the provisions of this chapter.

(10) On July 13, 1990, each state or local law enforcement agency which seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to being eligible to receive grants from the trust fund, have one (1) or more officers currently employed attend asset-forfeiture training as approved by the Kentucky Law Enforcement Council which shall approve a curriculum of study for asset-forfeiture training.

(11) Other provisions of this section notwithstanding, any vehicle seized by a law enforcement agency which is forfeited pursuant to this chapter may be retained by the seizing agency for official use or sold within its discretion. Proceeds from the sale shall remain with the agency and shall not be paid into the trust fund and shall not be considered for purposes of the limits established in subsection (12) of this section. The moneys shall be utilized for purposes consistent with KRS 218A.405 to 218A.460. The seizing agency shall be required to pay any bona fide perfected security interest on any vehicle so forfeited.

(12) Other provisions of law notwithstanding, ***twenty percent (20%) of all forfeited coin or currency or of all proceeds from the sale of any property forfeited pursuant to this chapter which was seized or forfeited by a single order of forfeiture shall be paid to the Cabinet for Families and Children, which shall use the funds to assist with the provision of care for any children placed in foster care. Of the remaining funds,*** the ***next***~~[first]~~ fifty thousand dollars ($50,000) of forfeited coin or currency or of the proceeds from ***the*** sale of any property forfeited pursuant to this chapter which was seized or forfeited by a single order of forfeiture, shall not be paid into the fund but ninety percent (90%) shall be paid to the law enforcement agency or agencies which seized the property to be used for direct law enforcement purposes and ten percent (10%) to the office of the Commonwealth's attorney or county attorney who has participated in the forfeiture proceeding. The moneys are intended to supplement any funds appropriated to the recipient and shall not supplant other funding of any recipient. In addition, forty-five percent (45%) of all proceeds above ***this*** fifty thousand ***dollar***~~[dollars]~~ ($50,000) ***amount*** shall not be paid into the fund but shall be retained by the law enforcement agency or agencies which seized the property to be used for direct law enforcement purposes.

(13) When money or property is seized in a joint operation involving more than one (1) law enforcement agency, or prosecutorial office, the apportionment of funds to each pursuant to subsection (7)(a) of this section, or pursuant to subsection (12) of this section, shall be made among the agencies in a manner to reflect the degree of participation of each agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based. The trial court shall determine the proper division and include the determination in the final order of forfeiture.

HJR 136, A JOINT RESOLUTION urging the Secretary of the Cabinet for Health and Family Services and the Department for Medicaid Services to implement an Omnibus Medicaid Modernization Program.

WHEREAS, the Kentucky Medicaid Program has experienced considerable cost growth in recent years as it has expanded to provide health care coverage for nearly 670,000 citizens of the Commonwealth; and

WHEREAS, Kentucky expends a disproportionate amount of money on certain high-cost diseases that may be better controlled through a comprehensive education and management approach; and

WHEREAS, recipients' knowledge and education about their health conditions and input with treatment decisions will enable recipients to receive the most appropriate and highest-quality care; and

WHEREAS, Medicaid recipients average more than twice the number of prescriptions each year compared to the national average. Approximately 240,000 recipients in the outpatient pharmacy program take eight or more prescription medications each month, and national studies suggest that persons taking eight or more prescription medications each month are more likely to have an adverse reaction; and

WHEREAS, the use of reliable and complete data will provide the department with information necessary to analyze and modernize the Medicaid program while also improving the quality of care and reducing risks associated with inappropriate care; and

WHEREAS, the Governor's Office and cabinet departments associated with management of the Medicaid program have a critical need to upgrade the program's administrative capabilities consistent with other states' Medicaid programs and consistent with the Commonwealth's commercial health care market;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky Medicaid program shall embark on an omnibus plan to modernize Medicaid through improvements in technology, advanced medical management initiatives, and improved benefit management approaches. The impact of these efforts will serve to improve the health care received and overall health status of the Medicaid population. This modernization may be centered on three areas: (1) Technology Improvement, (2) Care Management, and (3) Benefit Management.

Section 2. To improve technology, the Department for Medicaid Services may:

(1) Assess the computer systems technology that supports the Medicaid program. This integral component of Medicaid modernization may include a review of the program's claims processing, eligibility management, and reporting capabilities both internally and through contracted agents; and

(2) Create a data warehouse to capture demographic and utilization data on the full spectrum of the Medicaid program. The data warehouse may allow for the accurate and timely retrieval of data in a readily accessible format. The data may be utilized to track programmatic trends and monitor the progress of new initiatives.

Section 3. To improve care management, the Department for Medicaid Services may:

(1) Institute a disease management initiative. This initiative may contain the following components:

   (a) Member education. Member education may provide for instruction to Medicaid recipients about the causes and triggers of the medical conditions that are targeted by the initiative and the available treatment options for the conditions. Education may assist recipients with information about appropriate access of the health care system and identifying alternatives to emergency room care for nonemergency conditions; and

   (b) Case management. Case management may involve the use of a team of medical professionals who may answer questions, give information, and offer medical advice;

(2) Institute a self-directed care initiative. This initiative may combine educational and delivery system approaches to create consumer-driven health care, including but not limited to Cash and Counseling, that empowers the Medicaid recipient to be an informed participant in the dollar distribution of his or her care management by making more care decisions, thereby facilitating improved accountability and quality of care; and

(3) Institute a utilization management initiative. This initiative may include a review of the department's utilization review processes to determine whether they conform to industry standards and are the most cost-effective means of achieving those standards. The review may include an analysis and update to any contract with a peer review organization, with the goal of implementing utilization review approaches that are consistent with industry standards.

Section 4. To improve benefit management, the Department for Medicaid Services may:

(1) Institute pharmacy benefit management. This initiative may include the selection of a pharmacy benefit management firm and implementation of a pharmacy benefit management program to ensure appropriate oversight, appropriate pharmacy usage levels, management, and reporting within the outpatient pharmacy program; and

(2) Empower the Pharmacy and Therapeutics Advisory Committee. This committee, which assists the department with decisions about appropriate utilization and authorization requirements of prescription medications in the outpatient pharmacy program, may be given increased responsibility with management of the preferred drug list; and

(3) Secure supplemental rebates. The department may work with the Pharmacy and Therapeutics Advisory Committee and a pharmacy benefit management firm to develop systems to allow the department to secure additional financial rebates from pharmaceutical manufacturers.

Section 5. This Act shall be known as the Omnibus Medicaid Modernization Program Act of 2004.

The Committee on Transportation reported **HB 172**, with Committee Substitutes attached thereto, with the expression of opinion that the same should pass. Reported to the Committee on Rules.

The Committee Substitute No. 2 to **HB 172** is as follows:

HB 172, AN ACT relating to special license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section and in Sections 2, 3, 6, and 7 of this Act:

   (a) "Special license plate" means a unique license plate issued under this chapter to a group or organization that readily identifies the operator of the motor vehicle bearing the plate as a member of a group or organization, or a supporter of the work, goals, or mission of a group or organization. The term shall not include regular license plates issued under KRS 186.240;

   (b) "Street rod" means a modernized private passenger motor vehicle manufactured prior to the year 1949, or designed or manufactured to resemble a vehicle manufactured prior to 1949;

   (c) "SF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by

the Transportation Cabinet;

(d) "CF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by a county clerk; and

(e) "EF" means the portion of an initial or renewal fee to obtain a special license plate that is mandated by this chapter to be dedicated for use by a particular group or organization.

(2) The initial purchase fee and renewal fee for a special license plate created under this chapter shall be as established in this subsection and includes the name of group or organization and the total initial and renewal fee required for the plate. The amount in parentheses indicates how the total fee is required to be divided:

(a) Disabled veterans who receive assistance to purchase a vehicle from the United States Veterans' Administration and recipients of the Congressional Medal of Honor:

1. Initial Fee: $0 ($0 SF/$0 CF/$0 EF).

2. Renewal Fee: $0 ($0 SF/$0 CF/$0 EF).

(b) Former prisoners of war, survivors of Pearl Harbor, and members of the Kentucky National Guard:

1. Initial Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

2. Renewal Fee: $3 ($0 SF/$3 CF/$0 EF).

(c) Recipients of the Purple Heart; members of the Civil Air Patrol; active, retired, veteran, reserve, or auxiliary members of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; Merchant Marines who served between December 7, 1941, and August 15, 1945; and disabled veterans who have been declared to be at least seventy percent (70%) service-connected disabled by the United States Department of Veterans' Affairs, or who receive total service-connected disability rating for compensation on individual unemployability and have not received assistance from the United States Department of Veterans' Affairs toward the purchase of a motor vehicle:

1. Initial Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(d) Recipients of the Distinguished Service Cross, Navy Cross, or Air Force Cross:

1. Initial Fee: $3 ($0 SF/$3 CF/$0 EF).

2. Renewal Fee: $3 ($0 SF/$3 CF/$0 EF).

(e) Disabled license plates:

1. Initial Fee: $15 ($12 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(f) Historic vehicles:

1. Initial Fee for two plates: $53 ($50 SF/$3 CF/$0 EF).

2. Renewal Fee: Do not renew annually.

(g) Members of Congress:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(h) Volunteer firefighters:

1. Initial Fee: $15 ($12 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(i) Disaster and emergency services:

1. Initial Fee: $28 ($25 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(j) Fraternal Order of Police:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(k) Law Enforcement Memorial:

1. Initial Fee: $75 ($62 SF/$3 CF/$10 EF to the Kentucky Law Enforcement Memorial Foundation, Inc.).

2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to the Kentucky Law Enforcement Memorial Foundation, Inc.).

(l) Personalized plates:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).

2. Renewal Fee: $40 ($37 SF/$3 CF/$0 EF).

(m) Street rods:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(n) Nature plates:

1. Initial Fee: $25 ($12 SF/$3 CF/$10 EF to Kentucky Heritage Land Conservation Fund established under KRS 146.570).

2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to Kentucky Heritage Land Conservation Fund established under KRS 146.570).

(o) Amateur radio:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(p) Kentucky General Assembly:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(q) Kentucky Court of Justice:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).

2. Renewal Fee: $3 ($0 SF/$3 CF/$0 EF).

(r) Masons:

1. Initial Fee: $28 ($25 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(s) Collegiate plates:

1. Initial Fee: $50 ($37 SF/$3 CF/$10 EF to the general scholarship fund of the university whose name will be bourne on the plate).

2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to the general scholarship fund of the university whose name will be bourne on the plate).

(t) Independent Colleges:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to the Association of Independent Kentucky Colleges and Universities for distribution to the general scholarship funds of the Association's members).

2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to the Association of Independent Kentucky Colleges and Universities for distribution to the general scholarship funds of the Association's members).

(u) Child Victims:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to the child victims' trust fund established under KRS 41.400).

2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the child victims' trust fund established under KRS 41.400).

(v) Kentucky Horse Council:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to the Kentucky Horse Council).

2. Renewal Fee: $20 ($12 SF/$3 CF/ $5 EF to the Kentucky Horse Council).

(w) Ducks Unlimited:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to Kentucky Ducks Unlimited).

2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to Kentucky Ducks Unlimited).

(x) Spay neuter:

1. Initial Fee: $25 ($12 SF/$3 CF/$10 EF to the animal control and care fund established under KRS 258.119).

2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the animal control and care fund established under KRS 258.119).

(3) Any special license plate may be combined with a personalized license plate for a twenty-five dollar ($25) state fee in

addition to all other fees for the particular special license plate established in this section and in subsection (3) of Section 2 of this Act. The twenty-five dollar ($25) fee required under this subsection shall be divided between the cabinet and the county clerk of the county where the applicant is applying for the license plate with the cabinet receiving twenty dollars ($20) and the county clerk receiving five dollars ($5).

SECTION 2. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) The SF portion of the fee required under Section 1 of this Act shall include the fee to reflectorize all license plates under KRS 186.240. All EF fees required under Section 1 of this Act shall be collected at the time of an initial or renewal application by the county clerk who shall forward the EF fee to the cabinet. The cabinet shall remit EF fees to the group or organization identified in Section 1 of this Act on an annual basis. The cabinet may retain any investment income earned from holding EF fees designated to be remitted under this subsection to offset administrative costs incurred by the cabinet in the administration of EF fees.

(2) A special license plate shall be the color and design selected by the group or organization identified in subsection (11) of this section, contingent upon the approval of the Transportation Cabinet. In addition to the design selected for a special license plate, the name "Kentucky," an annual renewal decal, and any combination of letters or numerals required by the cabinet in the design shall also appear on the plate.

(3) Except as provided in Section 1 of this Act, the total initial fee for a special license plate created under this chapter shall be twenty-eight dollars ($28), of which the Transportation Cabinet shall receive twenty-five dollars ($25) and the county clerk shall receive three dollars ($3), and the total renewal fee shall be fifteen dollars ($15), of which the Transportation Cabinet shall receive twelve dollars ($12) and the county clerk shall receive three dollars ($3). The twenty-five dollar ($25) initial fee and twelve dollar ($12) renewal fee received by the Transportation Cabinet under this subsection shall include an applicant's registration fee required under KRS 186.050.

(4) An actual metal special license plate shall be issued on the same schedule as regular license plates are issued under KRS 186.240. The cabinet shall have the discretion to extend the time period that will exist between the date a metal special license plate is issued and the date that regular plates are issued under KRS 186.240. A renewal registration decal shall be issued all other years during the owner's or lessee's birth month, except as provided in subsection (2) of Section 4 of this Act, subsection (5) of Section 5 of this Act, and subsection (2) of Section 7 of this Act. A person seeking a special license plate for a vehicle provided as part of the person's occupation shall conform to the requirements of KRS 186.050(14).

(5) All special license plates issued under this chapter shall be replaced free of charge if the metal plate is destroyed in an accident, deteriorates to a point that the lettering, numbering, or images on the face of the plate are not legible, or the plate is stolen, if the owner or lessee has not transferred the vehicle to which the plate was issued during the current licensing period.

(6) Upon the sale, transfer, or termination of a lease of a vehicle with any special license plate issued under this chapter, the owner or lessee shall remove the special plate and return it and the certificate of registration to the county clerk. The county clerk shall reissue the owner or lessee a regular license plate and a certificate of registration upon payment of a three dollar ($3) county clerk fee. If the owner or lessee requests, the county clerk shall reissue the special plate free of charge for use on any other vehicle of the same classification and category owned by the person during the current licensing period. If the owner or lessee has the special plate reissued to another vehicle, the regular license plate that is being replaced shall be returned to the county clerk who shall forward the plate to the Transportation Cabinet.

(7) A special license plate may be issued to the owner or lessee of a motor vehicle that is required to be registered under KRS 186.050(1), (3)(a), or (4)(a) except a special license plate shall not be issued to a taxicab, airport limousine, or U-Drive-It registered and licensed under this chapter or KRS Chapter 281. A person applying for a special license plate shall apply in the office of the county clerk in the county of the person's residence, except as provided in subsection (3) of Section 4 of this Act. All special license plates issued under this chapter may be combined with a personalized license plate under the provisions of KRS 186.174. The fee to combine a special license plate with a personalized license plate shall be as established in subsection (3) of Section 1 of this Act.

(8) Within thirty (30) days of termination from election to, appointment to, or membership with any group or organization, an applicant to whom a special license plate was issued under this chapter shall return the special license plate to the county clerk of the county of his or her residence, unless the person is merely changing his or her status with the group or organization to retired.

(9) A group wanting a special license plate that is not currently authorized under this chapter may apply to the Transportation Cabinet for a special plate after the group collects a minimum of nine hundred (900) applications from members of the organization with each application being accompanied by a twenty-five dollar ($25) state fee. The applications and accompanying fee shall be submitted to the cabinet at one (1) time as a whole and shall not be submitted individually or intermittently. After the minimum number of applications and accompanying state fee have been submitted to the Transportation Cabinet, the cabinet shall begin designing and printing the special license plate.

(10) An initial applicant for, or an applicant renewing, his or her registration for a special license plate may, at the time of application, make a voluntary contribution that the county clerk shall forward to the cabinet. The cabinet shall, on an annual basis, remit the voluntary contributions to the appropriate group identified to be used for the declared purpose

stated under subsection (11) of this section. The cabinet may retain any investment income earned from holding voluntary contributions designated to be remitted under this subsection to offset administrative costs incurred by the cabinet in the administration of the contributions. Any group or organization that receives a mandatory EF fee under Section 1 of this Act shall submit the information required under subsection (11)(a) and (c) of this section to the Transportation Cabinet within thirty (30) days of the effective date of this Act.

(11) If a group wants to receive a donation when the group or organization's special license plate is initially purchased or renewed under subsection (10) of this section, the group shall, at the time the nine hundred (900) applications are submitted to the Transportation Cabinet, also submit a notarized affidavit to the cabinet attesting to:

- *(a) The name, address, and telephone number for the group or organization. If the group or organization does not have its headquarters in the Commonwealth, the name, address, and telephone number for the group or organization's Kentucky state chapter shall be required. The names of the officers of the group or organization shall also be required. If the entity receiving funds under subsection (10) of this section is not a state government agency, a program unit within a state government agency, or is a group or organization that does not have a statewide chapter, an extra donation for use by the group or organization shall be prohibited;*
- *(b) The amount of the monetary donation the group wants to receive when a person purchases the group or organization's special license plate; and*
- *(c) The purpose for which the donated funds will be used by the group or organization. Donated funds shall not be limited for use by members of the group or organization, and shall not be used for administrative or personnel costs of the group or organization.*

(12) All funds received by a group or organization under subsection (10) of this section shall be deposited into an account separate from all other accounts the group or organization may have and the account shall be audited yearly at the expense of the group or organization. The completed audit shall be forwarded to the Transportation Cabinet in Frankfort. One hundred percent (100%) of the funds received by a group or organization under subsection (10) of this section shall be used for the express purpose identified by the group in subsection (11) of this section. Any group or organization that receives a mandatory EF fee under Section 1 of this Act shall comply with the provisions of this subsection.

(13) The secretary of the Transportation Cabinet shall promulgate administrative regulations under KRS Chapter 13A to establish additional rules to implement the issuance of special license plates issued under this chapter, including but not limited to:

- *(a) Documentation that will be required to accompany an application for a special license plate to provide proof of election to the United States Congress or the Kentucky General Assembly; election or appointment to the Kentucky Court of Justice; membership in a Masonic Order, Fraternal Order of Police, or disaster and emergency services organization; or ownership of an amateur radio operator license; and*
- *(b) The time schedule permissible for a group or organization to request a design change for the special license plate.*

(14) Any individual, group, or organization that fails to audit any funds received under this chapter, or that intentionally uses any funds received in any way other than attested to under subsection (11) of this section or for administrative or personnel costs in violation of subsection (11) of this section, shall be guilty of a Class D felony and upon conviction shall, in addition to being subject to criminal penalties, be assessed a mandatory five thousand dollar ($5,000) fine.

SECTION 3. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) The Transportation Cabinet shall, unless directed otherwise by the General Assembly, perpetually produce the following special license plates: military license plates, U.S. Congressional license plates, volunteer firefighter license plates, disaster and emergency services license plates, Fraternal Order of Police license plates, Law Enforcement Memorial license plates, street rod license plates, nature license plates, amateur radio license plates, Kentucky General Assembly license plates, Kentucky Court of Justice license plates, Masonic Order license plates, collegiate license plates, independent college and university license plates, child victims' trust fund license plates, Kentucky Horse Council license plates, Ducks Unlimited license plates, and spay neuter license plates.

(2) The design of the plates identified for perpetual production under this section may be revised upon request of a group or organization requesting a design revision under the provisions of subsection (13) of Section 2 of this Act.

Section 4. KRS 186.041 is amended to read as follows:

(1) [~~The provisions of this section shall govern the issuance of all special military related license plates. Except as provided in subsection (9) of this section, a person who wants to purchase a special military related license plate shall apply to the county clerk in the county where the person lives on a form prescribed by the Transportation Cabinet.~~]Each initial and renewal application *for a special military license plate* shall be accompanied by proof that the person is associated with the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Coast Guard, United States Coast Guard Auxiliary, Kentucky National Guard, Merchant Marines with service between December 7, 1941, and August 15, 1945, or Civil Air Patrol in one (1) of the following ways:

- (a) An active component member;

(b) A retired member; or

(c) A veteran who received a discharge under honorable conditions, or the veteran's widow and:

1. Performed twenty-four (24) months of active-duty service;
2. Received an early release due to injuries or other medical condition, or at the convenience of the service;
3. Received a hardship discharge;
4. Was separated or retired due to a disability; or
5. Was determined to have a service-connected disability incurred during the enlistment.

(2) ~~[Initial registration and renewal registration fees for special military-related license plates shall be charged as provided in this subsection and KRS 186.174:~~

~~(a) Disabled veterans and recipients of the Congressional Medal of Honor licensed under subsection (5) of this section shall not be charged an initial registration fee and shall not be charged a renewal registration fee. The license plate and certificate of registration shall be issued free of charge.~~

~~(b) The initial registration fee shall be a seventeen dollar ($17) state fee that shall be divided under the provisions of subsection (3) of this section and that includes the cost to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee, and the renewal registration fee shall be a three dollar ($3) county clerk fee for:~~

~~1. Former prisoners of war licensed under subsection (11) of this section;~~
~~2. Survivors of Pearl Harbor licensed under subsection (12) of this section; and~~
~~3. Members of the National Guard licensed under subsection (13) of this section.~~

~~(c) The initial registration fee shall be a seventeen dollar ($17) state fee that shall be divided under the provisions of subsection (3) of this section, and the renewal registration fee shall be a twelve dollar ($12) state fee that includes the cost to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee for:~~

~~1. Disabled veterans licensed under subsection (6) of this section;~~
~~2. Purple Heart recipients licensed under subsection (10) of this section, except that if a Purple Heart recipient also qualifies as a disabled veteran under subsection (5) of this section, the Purple Heart recipient may receive either a Purple Heart or a disabled veteran's license plate, both initial and renewal, and the certificate of registration free of charge;~~
~~3. Members of the Civil Air Patrol licensed under subsection (14) of this section; and~~
~~4. Other active, retired, veteran, reserve, or auxiliary members of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or Merchant Marines licensed under subsection (15) of this section.~~

~~(d) Recipients of the Distinguished Service Cross, Navy Cross, or Air Force Cross licensed under subsection (9) of this section shall be charged an initial registration fee and a renewal registration fee of three dollars ($3.00) that shall be retained by the county clerk. A recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross licensed under subsection (9) of this section shall not be charged a state fee when initially receiving the plate or upon annual renewal of the plate.~~

~~(e) The initial and renewal registration fee for a military license plate that has been combined with a personalized license plate under the provisions of this section shall be as provided under KRS 186.174.~~

~~(3) The initial state fee collected under subsections (2)(b) and (2)(c) of this section shall be divided between the Transportation Cabinet and the Department of Veterans' Affairs. The Transportation Cabinet shall receive twelve dollars ($12) of the initial state fee and the Department of Veterans' Affairs shall receive five dollars ($5) of the initial state fee. The county clerk shall forward money collected under subsections (2)(b) and (2)(c) of this section to the Transportation Cabinet who shall forward the money to the Department of Veterans' Affairs on a quarterly basis and the department shall deposit the money into the veterans' program trust fund established by KRS 40.460(2)(b). A person renewing a special military license plate issued under this section may donate five dollars ($5) to support the veteran's program trust fund. Money donated under this subsection shall be paid to the county clerk who shall forward the money to the Transportation Cabinet who shall forward the money on a quarterly basis to the Department of Veterans' Affairs and the department shall deposit the money into the veteran's program trust fund established by KRS 40.460(2)(b).~~

~~(4) A special military-related license plate may be issued for use on a passenger car registered under KRS 186.050(1) or for a commercial vehicle registered under KRS 186.050(3)(a) that has a gross laden weight of six thousand (6,000) pounds or less. Except as provided in subsection (7) of this section and KRS 186.174, a license plate issued under this section shall have the renewal registration decal issued annually during the applicant's birth month and shall be a five (5) year license plate.]~~The member, retired member, veteran, or reservist may purchase two (2) special military-related license plates annually for vehicles they own or lease. ***A disabled veterans license plate shall expire on July 31.***~~[A license plate issued under this section may be combined with a personalized license plate under the provisions of KRS 186.174.~~

~~(5) A recipient of the Congressional Medal of Honor, a recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross, or a disabled veteran who has been or shall be given financial assistance toward the purchase or lease of a motor vehicle by the United States Department of Veterans Affairs under the provisions of 38 U.S.C. sec. 1901, or any other~~

~~public law that may be passed by the Congress of the United States shall initially and annually be issued a certificate of registration and a special military-related license plate free of charge.~~

~~(6) A veteran who has been declared to be at least seventy percent (70%) service-connected disabled by the United States Department of Veterans Affairs, or who is receiving total service-connected disability rating for compensation on individual unemployability, and who has not received financial assistance from the United States Department of Veterans Affairs toward the purchase or lease of a motor vehicle shall be eligible for a disabled veterans license plate upon payment of the initial registration fee required in subsection (2)(c) of this section.~~

~~(7) A disabled veterans license plate shall be printed in red, white, and blue colors. Half of the license plate shall be in one (1) color, the other half a second color, and the figures and lettering in the third color. Each plate shall contain the international symbol of access adopted by Rehabilitation International in 1969, the name of the state, the year, the registration number, and the words "Disabled Vet." A disabled veterans license plate shall have the renewal registration decal issued annually on July 31.~~

~~(8) A recipient of the Congressional Medal of Honor shall be eligible for a Congressional Medal of Honor license plate that shall be printed in blue and white colors and shall follow the color scheme for all figures and letters as prescribed for passenger cars. Each plate shall contain the name or an abbreviation of the state and the words "Medal of Honor" and a number uniquely identifying each recipient, in lieu of registration numbers.~~]

(3)[~~(9)~~] A recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross shall be eligible for a Service Cross license plate upon submission of an application to the Kentucky Department of Veterans' Affairs. The recipient shall be required to include with the initial application for a Service Cross license plate a copy of the general order that authorized the award and the recipient's Department of Defense form number 214. The Department of Veterans' Affairs shall verify the documentation submitted with the application for a Service Cross license plate, and if the individual applying for the plate is confirmed to be a recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross, the Department of Veterans' Affairs shall submit the applicant's name to the Transportation Cabinet's Division of Motor Vehicle Licensing not later than September 1 preceding the year that the Service Cross license plate is to be initially issued or renewed. When the Service Cross license plate is ready, the plate shall be sent to the county clerk in the county of the applicant's residence. The Transportation Cabinet's Division of Motor Vehicle Licensing shall inform each applicant in writing that the Service Cross license plate is ready and may be picked up at the county clerk's office.[~~ Each Service Cross license plate shall contain the name or an abbreviation for the state and an alphabetic or numeric designation uniquely identifying each recipient of a Service Cross license plate in lieu of registration numbers. The Transportation Cabinet shall have the authority to select three (3) designs and the appropriate color scheme for each design of the Service Cross license plate. In addition to the requirements of this subsection, the Transportation Cabinet shall have the authority to include other information on the Service Cross license plate.~~] The Transportation Cabinet shall prescribe the type of application form required by this subsection and shall supply the Department of Veterans' Affairs with the application form required by this subsection.

(4)[~~(10) A recipient of a Purple Heart medal shall be eligible for a Purple Heart license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. A Purple Heart license plate shall bear the name "Purple Heart," a registration number, and an appropriate logo to be determined by the Transportation Cabinet.~~

~~(11)~~] A person who is a former prisoner of the enemy during World War I, World War II, the Korean War, or the Vietnam War, or the spouse of a deceased former prisoner of war, shall be eligible for a former prisoner of war license plate[~~ upon payment of the initial registration fee required in subsection (2)(b) of this section. The application shall be accompanied~~] by ***submitting*** written proof from the United States Department of Veterans Affairs or other appropriate federal agency stating the period of time the person or person's spouse was a prisoner of war.[~~ A former prisoner of war license plate shall be printed in red, white, and blue colors. Each plate shall contain the name of the state, the year, the registration number, and the words "Former P.O.W."~~] If a former prisoner of war dies with a vehicle licensed as authorized under this section, the person's surviving spouse may retain the license plate for use on the same vehicle or on another vehicle that complies with the provisions of subsection ***(7) of Section 2 of this Act***[~~(4) of this section~~].

(5)[~~(12)~~] A person who is certified by the Kentucky chapter of the Pearl Harbor Survivors Association as being a survivor of the attack on Pearl Harbor shall be eligible for a Pearl Harbor license plate ***and***[~~upon payment of the initial registration fee required in subsection (2)(b) of this section. The Transportation Cabinet shall issue an applicant an appropriately designed plate identifying the vehicle as registered to a Pearl Harbor survivor. The person~~] shall be required to attach to the special military-related license plate application written evidence from the Kentucky chapter of the Pearl Harbor Survivors Association that the person:

(a) Was a member of the United States Armed Forces on December 7, 1941;

(b) Was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m., Hawaii time, at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three (3) miles;

(c) Was discharged honorably from the United States Armed Forces; and

(d) Is certified by the Kentucky chapter of the Pearl Harbor Survivors Association.

[~~(13) A person who is a member of the Kentucky National Guard, or a retired member, shall be eligible for a National Guard license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. A National Guard~~

~~license plate shall bear the name "Kentucky National Guard," a registration number, and the logo of the National Guard. Upon termination of membership in the Kentucky National Guard, except for those who remain eligible through retirement, a person shall comply with the provisions of subsection (16) of this section.~~

~~(14) A person who is a member of the Civil Air Patrol shall be eligible for a Civil Air Patrol license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. A Civil Air Patrol license plate shall bear the name "Civil Air Patrol," a registration number, and an appropriate logo to be determined by the Transportation Cabinet. Upon termination of membership in the Civil Air Patrol, a person shall comply with the provisions of subsection (16) of this section.~~

~~(15) (a) A person who meets the requirements of subsection (1) of this section shall be eligible for a military license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. The plate shall bear:~~

~~1. A seal indicating Army, Navy, Air Force, Marine Corps, or Coast Guard, or, in the case of the Merchant Marines, a seal indicating the branch of service issuing a discharge;~~

~~2. A decal indicating whether the person's status is active duty, reserve duty, veteran, retired veteran, or widow; and, if applicable, a decal for auxiliary in the case of the Coast Guard or a decal for the Merchant Marines;~~

~~3. A veteran's decal may further indicate a veteran's service in a wartime era; and~~

~~4. A registration number.~~

~~(b) Upon termination of membership in the active component or reserves of the United States Armed Forces or the United States Coast Guard, a person shall comply with the provisions of subsection (16) of this section.~~

~~(c) The Transportation Cabinet, in coordination with the Department of Veterans' Affairs, shall promulgate an administrative regulation under KRS Chapter 13A defining criteria for the issuance of specific decals for veterans' wartime service.~~

~~(16) Except for persons changing their status to retired, within thirty (30) days of termination of membership or reserve status in a group eligible for a special military-related license plate, a person issued a military plate under this section or a combined personalized/special military license plate issued under KRS 186.174, shall return the plate to the county clerk of the county of his residence. Upon payment of a three dollar ($3) county clerk fee, the county clerk shall issue the person a regular license plate to replace the plate being surrendered.~~

~~(17) Upon the sale, transfer, or termination of a lease of a motor vehicle for which a special military-related license plate has been issued, the owner shall return the military plate and the certificate of registration to the county clerk. The county clerk shall issue a regular license plate and certificate of registration upon payment of a twelve dollar ($12) state fee which includes the fifty cent ($0.50) fee to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee. The twelve dollar ($12) state fee shall be forwarded to the Transportation Cabinet. Upon request and payment of a three dollar ($3) fee, the county clerk shall reissue the special military-related license plate for use on any other vehicle owned by the same person who purchased the special plate for the current licensing period.~~

~~(18) The cabinet shall promulgate administrative regulations to set forth the documentation required in order to establish a person's qualifications to receive any license plate issued under this section.~~

~~(19) A person seeking a special military-related license plate for a vehicle provided to that person pursuant to an occupation shall conform to the requirements of KRS 186.050(14).~~

~~(20) If a special military-related license plate is lost, stolen, mutilated, or deteriorates to the point where the inscriptions or decals are not discernible, the person to whom the plate was issued may obtain a replacement plate free of charge.~~]

Section 5. KRS 186.042 is amended to read as follows:

(1) For the purposes of this section, "persons with disabilities which limit or impair the ability to walk" means persons who, as determined by a licensed physician:

(a) Cannot walk two hundred (200) feet or sixty-one (61) meters without stopping to rest;

(b) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistant device;

(c) Are restricted by lung disease to the extent that the person's forced respiratory and expiratory volume for one (1) second, when measured by spirometry, is less than one (1) liter, or the arterial oxygen tension is less than sixty (60) mm/hg on room air at rest;

(d) Use portable oxygen;

(e) Have a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association; or

(f) Are severely limited in their ability to walk due to an arthritic, neurological, or orthopedic condition.

(2) On the application of any person with disabilities which limit or impair the ability to walk, who has lost the use of an arm or both arms, or who is blind, the Transportation Cabinet shall issue the person with a disability an accessible parking registration plate or renewal decal designating the vehicle licensed as being owned by or leased by a person with a

disability. The license plate or renewal decal may be issued for a passenger car as set forth in KRS 186.050(1), for a motorcycle as set forth in KRS 186.050(2), or for a commercial vehicle as set forth in KRS 186.050(3)(a). The registration plates issued shall bear the international symbol of access adopted by Rehabilitation International in 1969, reading from left to right and shall be followed by numbers or letters the cabinet finds expedient. The cabinet shall not issue the registration plates so designated to any person other than a person with a disability as described above. The ***fee for a disabled license plate shall be as established in Section 1 of this Act***[~~cabinet shall not charge any fee, other than the regular fee for annual registration, for the issuance of the registration plate or renewal decal~~].

(3) The application for a license plate for a person with a disability shall be made on a form prepared by the Transportation Cabinet. For every person seeking this accessible parking license plate, proof of the disability shall be required by:

(a) The county clerk issuing the license plate ascertaining that the applicant is obviously disabled as described in this section; or

(b) A statement from a licensed physician that the applicant is a person with disabilities which limit or impair the ability to walk, a person who has lost the use of an arm, or any person who is blind.

(4)[~~Upon the sale, transfer, or termination of lease of a vehicle licensed as authorized under this section, the owner or lessee shall remove the license plate and return it and the certificate of registration to the county clerk. The clerk shall issue a regular license plate and certificate of registration upon the payment of an eleven dollar fifty cent ($11.50) state fee and a three dollar ($3) clerk's fee. When the accessible parking plate has been presented to the clerk, he shall reissue the plate, free of charge by the Transportation Cabinet and upon payment of a two dollar ($2) clerk's fee, for use on any other vehicle owned or leased by the same person who purchased the accessible parking plate for the current licensing period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who shall forward the license plate to Frankfort.~~

~~(5)~~] When a motor vehicle bearing plates issued to a person with a disability as prescribed in this section is being operated by or for the benefit of the person with a disability, who is in the motor vehicle when the motor vehicle is being operated, the motor vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities, except if local ordinances or police regulations prohibit parking on a highway for the purpose of creating a fire lane; if the ordinances or police regulations provide for the accommodation of heavy traffic during morning, afternoon, or evening hours; or if the motor vehicle is parked in such a manner as to clearly be a traffic hazard.

(5)[~~(6) Any person with a disability seeking to obtain a license plate according to this section who has been provided an automobile pursuant to an occupation shall conform to the requirements of KRS 186.050(14).~~

~~(7)~~] Registration under this section shall expire July 31.

[~~(8) The cabinet may promulgate the administrative regulations necessary to further the purpose of this section.~~]

Section 6. KRS 186.043 is amended to read as follows:

(1) In enacting this section, it is the intention of the General Assembly to recognize the special value of historic vehicles to the Commonwealth, and also to recognize that historic vehicles, because of their limited use and easily identifiable characteristics, do not require the same degree of regulation as other vehicles.

(2) As used in this section, unless the context otherwise requires, "historic vehicle" shall mean all motor vehicles twenty-five (25) years old or older, which are used primarily for exhibition in shows, parades, tours, and other special uses, but not for general transportation.

(3) Historic vehicles shall be registered and licensed by the Transportation Cabinet. The registration shall be in lieu of registration and license required by KRS 186.020 to 186.270.

(4) Upon payment of ***the fee established in Section 1 of this Act***[~~a fee of fifty dollars ($50)~~] and an application in accordance with regulations issued by the Transportation Cabinet, the secretary of the Transportation Cabinet shall issue a certificate of registration and two (2) special license plates of a different color and design than the regular license plate, which, in the judgment of the secretary of the Transportation Cabinet, will best advertise, popularize, and promote the Commonwealth of Kentucky. These plates, besides the word "Kentucky" shall have the words, "Historic Motor Vehicle" inscribed in a conspicuous manner and carry no year date. These plates shall have a serial number beginning with the number "100" and continue in a consecutive numerical sequence.

(5) Historic vehicles may display an authentic Kentucky license plate, twenty-five (25) years or older, or a reproduction of such a plate, if the historic motor vehicle plate and the registration receipt are kept in the vehicle at all times.

(6) The registration license and license plates of historic motor vehicles shall be valid without renewal as long as the vehicle is in existence. If the historic motor vehicle is sold, the registration and license shall be assigned and transferred to the new owner on the records of the Transportation Cabinet upon receipt of an application in accordance with regulations issued by the cabinet and payment of a fee of three dollars ($3).

[~~(7) The secretary of the cabinet may promulgate administrative regulations he deems necessary to further the purpose of this section.~~]

Section 7. KRS 186.174 is amended to read as follows:

(1) For purposes of this section, "personalized license plate" means a license plate issued with personal letters or numbers

significant to the applicant and it also means a license plate that ***is issued under this section and has been combined with a special license plate***[~~combines personal letters or numbers significant to the applicant with a special military related license plate issued under KRS 186.041~~].

(2) [~~Except as provided in this subsection,~~]Any owner or lessee of a motor vehicle that is required to be registered under the provisions of KRS 186.050(1)***,***[~~ or~~] (3)(a), ***or (4)(a)***[~~except taxicabs, airport limousines, and rental motor vehicles~~], or any owner ***or lessee*** of a motorcycle required to be registered under the provisions of KRS 186.050(2) may[~~, in addition to registration under KRS 186.050(1) or (3)(a),~~] obtain a personalized license plate by applying for a personalized license plate in the office of the county clerk and upon payment of ***the fee required in Section 1 of this Act***[~~a twenty-five dollar ($25) fee~~]. A person ***initially*** applying for a personalized license plate shall submit the[~~ initial~~] application and ***appropriate SF fee***[~~twenty-five dollar ($25) fee for a personalized license plate~~] in person to the county clerk, but may submit the annual application to renew the personalized license plate ***and entire fee required in Section 1 of this Act***[~~with the twenty-five ($25) fee~~] by mail to the county clerk. Applications and fees for personalized license plates pursuant to this section must be received by the Transportation Cabinet on or before September 1 preceding the year that the plate or renewal is to be issued. A personalized license plate shall be replaced annually unless the applicant chooses to receive a renewal registration decal. A county clerk shall immediately forward the application and the ***fee required in Section 1 of this Act***[~~twenty-five dollar ($25) fee~~] for a personalized license plate to the Transportation Cabinet. Personalized plates issued under this section expire December 31 each year. The initial fee for a personalized license plate that has been combined with ***special license plate shall be as established in subsection (3) of Section 1 of this Act***[~~a military license plate under KRS 186.041 shall be thirty dollars ($30). The thirty dollar ($30) fee shall be divided between the Transportation Cabinet, which shall receive twenty-five dollars ($25), and the Department of Veterans' Affairs, which shall receive five dollars ($5). The county clerk shall forward the money collected under this subsection for a personalized license plate that has been combined with a military license plate to the Transportation Cabinet who shall forward on a quarterly basis the money to the Department of Veterans' Affairs, which shall deposit the money into the veterans' program trust fund established by KRS 40.460(2)(b). A person renewing a combination personalized/special military license plate under this section may donate five dollars ($5) to support the veterans' program trust fund. Money donated to the fund shall be forwarded by the county clerk to the Transportation Cabinet who shall forward the money on a quarterly basis to the Department of Veterans' Affairs, which shall deposit the money into the veterans' program trust fund established by KRS 40.460(2)(b)~~].

(3) A personalized plate shall not be issued that would conflict with or duplicate the alphabetical-numerical system used for regular license plates or any other license plates issued in the Commonwealth, and shall not contain a combination of more than six (6) letters of the alphabet and Arabic numerals, including spaces. A personalized plate shall not be issued if, in the discretion of the cabinet, it carries a letter or number combinations that carry connotations offensive to good taste and decency. The owner or lessee shall submit an application and ***fee***[~~twenty-five dollar ($25) fee annually~~] to renew a personalized license plate pursuant to the provisions of subsection (2) of this section. Once an applicant obtains a personalized plate, he ***or she*** will have first priority on that plate for each of the following years that he ***or she*** makes timely and proper application.

[~~(4) When registering a vehicle required to be registered under KRS 186.050(1) or (3)(a), the cabinet shall send the personalized plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk of the county of residence shall issue the personalized license plate and receive fourteen dollars fifty cents ($14.50), of which three dollars ($3) shall constitute the clerk's fee and eleven dollars fifty cents ($11.50) shall constitute the cabinet's fee.~~

~~(5) When registering a motorcycle, the cabinet shall send the personalized plate to the county clerk in the county in which the applicant would be required to register his motorcycle. The clerk shall issue the personalized plate and receive three dollars ($3) and three dollars ($3) for each sidecar attachment.~~

~~(6) (a) Upon the sale, transfer, or termination of lease of the motor vehicle bearing the personalized plate, the owner or lessee shall remove it and return it and the certificate of registration to the county clerk. The clerk shall issue a regular license plate and certificate of registration upon payment of an eleven dollar fifty cent ($11.50) state fee and a three dollar ($3) clerk's fee. The vehicle may then be transferred as provided by KRS Chapter 186.~~

~~(b) When the personalized plate has been presented to the clerk, he shall reissue it free of charge by the Transportation Cabinet and upon payment of a two dollar ($2) clerk's fee, for use on any other vehicle of the same classification and category owned or leased by the same person purchasing the personalized plate for the current license period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.~~

~~(7) Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in KRS 186.050(14).~~

~~(8) If a personalized plate deteriorates, if he has not transferred a vehicle during the current license period, the applicant may obtain a regular plate free.~~

~~(9) The secretary of the Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A necessary to further the purposes of this section.~~]

Section 8. KRS 41.400 is amended to read as follows:

(1) The child victims' trust fund is created as a separate fund in the office of the State Treasurer. The fund shall be expended only as provided in this section.

(2) The State Treasurer shall credit to the trust fund all amounts received for this purpose and any amounts received under KRS 141.440.

(3) The State Treasurer shall invest trust fund money in the same manner as surplus funds are invested. Earnings shall be credited to the trust fund.

(4) Until the total amount of assets in the trust fund exceeds twenty million dollars ($20,000,000), not more than one-half of the money contributed to the trust fund each year, plus the earnings credited to the trust fund during the previous fiscal year, and the money earned by the sale of child victims' trust fund license plates pursuant to KRS ***Chapter 186***~~[186.1867]~~, shall be available for disbursement upon the authorization of the state board as provided in KRS 15.935. After such time that the State Treasurer certifies that the assets in the trust fund exceed twenty million dollars ($20,000,000), only the earnings credited to the trust fund shall be available for disbursement upon the authorization of the state board as provided in KRS 15.935.

(5) Funds granted or funds received as gifts or donations to the child victims' trust fund shall be available for disbursement upon appropriation by the General Assembly, and funds authorized for expenditure shall not be considered assets for purposes of subsection (4) of this section.

Section 9. KRS 186.065 is amended to read as follows:

(1) Every state-owned motor vehicle, except as provided in subsection (2), shall have an official license plate. Except as provided in subsections (2), (3), and (4) on one (1) door on each side of every state-owned vehicle shall be the great seal of the Commonwealth and the words "For Official Use Only."

(2) The Cabinets of Revenue, Transportation, Justice***, Public Protection and Regulation,*** and the Attorney General may authorize registration under KRS 186.020 and be issued regular license plates for vehicles used for investigatory purposes. The Administrative Office of the Courts may authorize registration under KRS 186.020 and be issued regular license plates for vehicles used by justices and judges of the Supreme Court and Court of Appeals.

(3) The Governor and the Lieutenant Governor may each use one (1) state-owned motor vehicle on which it shall not be necessary to have the state seal or the words "For Official Use Only."

(4) The Justices and Judges of the Supreme Court and Court of Appeals may each use state-owned motor vehicles on which it shall not be necessary to have the state seal or the words "For Official Use Only."

Section 10. The following KRS sections are repealed:

186.171 Special license plates for members of Congress.

186.1721 Special license plate for disaster and emergency services staff members.

186.1723 Special license plate for member of Fraternal Order of Police.

186.1724 Special license plates for law enforcement memorial.

186.1751 Special license plate for "Street Rod" vehicle.

186.1761 Nature license plates.

186.177 Special license plates bearing amateur radio call letters.

186.178 Special license plates for General Assembly members.

186.179 Special license plates for Justices or Judges of the Court of Justice.

186.1831 Special license plates for members of a Masonic order.

186.1835 Special license plates for members of the Knights of Columbus.

186.184 Special PTA license plate -- PTA program fund.

186.185 Collegiate license plate.

186.186 Application for special license plates pursuant to KRS 186.186 to 186.1867 -- Vehicles leased or provided pursuant to an occupation -- Renewal, fees, administrative regulations.

186.18651 Special license plates for independent college or university.

186.1867 Special license plates for child victims' trust fund.

186.1868 Special Kentucky Horse Council license plate.

186.18685 Special license plates for Ducks Unlimited.

186.187 Special spay neuter license plate.

186.188 Special Louisville Zoo license plate.

186.189 Special license plates for special groups or special purposes.

The Committee on Transportation reported **HB 331, HB 473**, with Committee Substitute attached thereto, **HJR 55, HJR 107, HJR 116**, with Committee Amendment attached thereto, **HCR 124, HR 140,** and **HJR 147** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 331, AN ACT relating to airport safety and security.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 183.137 is amended to read as follows:

(1) The board may contract with any person or governmental agency for the use of the airport. Such contract shall not prevent, restrict or hamper the general use of the airport by the public.

(2) All unpledged or surplus revenue derived from use of the airport shall be first applied to the maintenance of the airport. A governmental unit may expend funds for this purpose out of its general funds or any other available funds.

(3) Any airport board is excused, under any contract or lease, from accepting performance from or rendering performance to an entity other than the entity with which it originally entered into the contract or lease, unless the airport board has specifically consented to the assignment and assumption of the contract or lease to the new party following review of such factors as the airport board deems appropriate, including the impact of the assignment upon airport safety and security.

HB 473, AN ACT relating to toll roads.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 175.525 is amended to read as follows:

(1) The authority or the cabinet shall establish by administrative regulation promulgated pursuant to KRS Chapter 13A a toll-road identification card to be provided to paying and nonpaying users of toll facilities. The toll-road identification cards shall be issued through an application process. A fee that shall not exceed five dollars ($5) may be established for the issuance of each card.

(2) Upon application, nonpaying accounts shall be established for:

(a) State police, local police, and fire department vehicles while the vehicles are being operated in an official capacity on a turnpike project;

(b) Emergency vehicles operated by an ambulance service while the vehicles are being operated in an official capacity, in both emergency and nonemergency situations on a turnpike project;[~~ and~~]

(c) Funeral processions on turnpike projects***; and***

(d) School district vehicles while the vehicles are being operated in an official capacity on turnpike projects.

(3) To receive the exemption contained in subsection (2) of this section, an ambulance service shall be licensed by the Cabinet for Health Services.

The Committee Substitute to **HB 473** is as follows:

HB 473, AN ACT relating to toll roads.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 175.525 is amended to read as follows:

(1) The authority or the cabinet shall establish by administrative regulation promulgated pursuant to KRS Chapter 13A a toll-road identification card to be provided to paying and nonpaying users of toll facilities. The toll-road identification cards shall be issued through an application process. A fee that shall not exceed five dollars ($5) may be established for the issuance of each card.

(2) Upon application, nonpaying accounts shall be established for:

(a) State police, local police, and fire department vehicles while the vehicles are being operated in an official capacity on a turnpike project;

(b) Emergency vehicles operated by an ambulance service while the vehicles are being operated in an official capacity, in both emergency and nonemergency situations on a turnpike project;[~~ and~~]

(c) Funeral processions on turnpike projects***;***

(d) Vehicles owned or leased by nonprofit organizations that are used in disaster relief efforts, while the vehicles are being operated on a turnpike project in responding to a disaster area as declared by the federal government or any state government; and

(e) School district vehicles while the vehicles are being operated in an official capacity on turnpike projects.

(3) To receive the exemption contained in subsection (2) of this section, an ambulance service shall be licensed by the Cabinet

for Health Services.

HJR 55, A JOINT RESOLUTION naming a bridge in honor of Dudley Riley.

WHEREAS, Dudley Riley was a prisoner of war for two and one-half years in Germany during World War II; and

WHEREAS, after his honorable service to his country, Dudley Riley remained active in veterans' issues, holding the post of Chapter Commander for the Western Kentucky Chapter of the American Ex-Prisoners of War as well as State Commander for Kentucky; and

WHEREAS, Dudley Riley was appointed to the Governor's Advisory Committee for the Western Kentucky Veteran Center; and

WHEREAS, Dudley Riley currently serves as the National Director of the American Ex-Prisoners of War; and

WHEREAS, in addition to his service to veterans, Dudley Riley has been involved in a wide variety of civic activities in his hometown and was recognized as the 2001 "Citizen of the Year" in Dawson Springs, Kentucky; and

WHEREAS, Dudley Riley should be honored and commended for a lifetime of service and sacrifice;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of the General Assembly, both individually and collectively, do hereby declare Dudley Riley to be an outstanding citizen of the Commonwealth and express their desire that he be honored in a tangible way.

Section 2. The Transportation Cabinet shall name the bridge on Kentucky Route 109 over the Trade Water River at mile marker 0.25 near the town of Dawson Springs the "Dudley Riley Bridge."

Section 3. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect appropriate signs identifying the bridge specified in Section 2 of this Resolution as the "Dudley Riley Bridge."

HJR 107, A JOINT RESOLUTION naming Interstate 65 in Jefferson County in honor and memory of Dr. Martin Luther King, Jr.

We pause to honor the memory of one of the greatest

humanitarians of this century, Dr. Martin Luther King, Jr.

WHEREAS, born on Tuesday, January 15, 1929, at his family's home in Atlanta, Georgia, Martin Luther King, Jr. was the second child but first son born to the Reverend Martin Luther King, Sr. and Alberta Williams King; and

WHEREAS, a brilliant child, Dr. Martin Luther King, Jr. skipped both the ninth and twelfth grades, and due to his high scores on college entrance examinations, he entered Morehouse College at the age of fifteen without formally graduating from high school; and

WHEREAS, graduating from Morehouse College in 1948 with a Bachelor of Arts degree in Sociology, Dr. Martin Luther King, Jr. earned a Bachelor of Divinity degree from Crozer Theological Seminary in Pennsylvania in 1951, while also taking classes at the University of Pennsylvania; and

WHEREAS, in the fall of 1951 Dr. Martin Luther King, Jr. began doctoral studies in Systematic Theology at Boston University and he was awarded his Ph.D. degree in 1955, all the while studying at Harvard University; and

WHEREAS, on June 18, 1953, Dr. Martin Luther King, Jr. married his soul mate Coretta Scott; and

WHEREAS, between November 17, 1955, and March 28, 1963, Dr. and Mrs. Martin Luther King, Jr. became the proud parents of four children, Yolanda Denise, Martin Luther III, Dexter Scott, and Bernice Albertine; and

WHEREAS, Dr. Martin Luther King, Jr. actually entered the ministry and was ordained in February 1948 at the age of nineteen at the Ebenezer Baptist Church in his hometown of Atlanta, Georgia; and

WHEREAS, upon graduation from Boston University, Dr. Martin Luther King, Jr. was called to be the Pastor of the Dexter Avenue Baptist Church in Montgomery, Alabama; and

WHEREAS, while shepherding the flock of Dexter Avenue Baptist Church, Dr. Martin Luther King, Jr. was thrust into the firestorm of hatred that existed throughout America, and which was especially violent in the southern states, by being one of the pivotal figures who started what became known throughout the world as the "Civil Rights Movement" when he was elected President of the Montgomery, Alabama Improvement Association; and

WHEREAS, Dr. Martin Luther King, Jr. spearheaded the Montgomery Improvement Association's famous boycott of the city's bus system, a boycott that lasted 381 days at great personal sacrifice, hardship, and persecution to the many citizens who stood behind Dr. King's dream of equality for all men and women, regardless of the color of their skin or their station in life; and

WHEREAS, the Montgomery bus boycott resulted in judicial systems across the nation beginning to strike down segregationist legislation as unconstitutional, and it also vaulted the civil rights movement, and Dr. Martin Luther King, Jr., into the forefront of American politics and social debate; and

WHEREAS, in 1959 Dr. Martin Luther King, Jr. resigned as pastor of Dexter Avenue Baptist Church to return to Atlanta to spearhead the civil rights work of the Southern Christian Leadership Conference; and

WHEREAS, on December 10, 1964 Dr. Martin Luther King, Jr. received the most prestigious award bestowed by the international community when at the age of 35 he was awarded the Nobel Peace Prize; and

WHEREAS, Dr. Martin Luther King, Jr. was the youngest man, second American, and only the third black man to be awarded the Nobel Peace Prize; and

WHEREAS, a cowardly assassin's bullet ended Dr. Martin Luther King, Jr.'s life on April 4, 1968 while he was in Memphis, Tennessee to help lead sanitation workers in a protest against low wages and intolerable working conditions; however, the bullet that robbed Dr. King of his life could never silence his message of love, faith, truth, peace, and brotherhood for all the people of the earth; and

WHEREAS, Dr. Martin Luther King, Jr. remains one of the most recognized individuals of this century; and during his brief life, in addition to the 1964 Nobel Peace Prize, he received the following awards: in 1957 he was selected as one of the ten most outstanding personalities of the year by Time Magazine, was listed in Who's Who in America, received the National Association for the Advancement of Colored People's Spingarn Medal, and received the Russwurm Award from the National Newspaper Publishers; in 1958 he received the Second Annual Achievement Award from the Guardian Association of the New York Police Department; in 1959 he was selected as one of the sixteen world leaders who contributed most to the advancement of freedom during 1959 by Ling Magazine of New Delhi, India; in 1963 Dr. King was named Time Magazine's "Man of the Year," and was named "American of the Decade," by the Laundry, Dry Cleaning, and Die Workers International Union; in 1964 in addition to the Nobel Peace Prize, Dr. King received the John Dewey Award from the United Federation of Teachers and the John F. Kennedy Award from the Catholic Interracial Council of Chicago; in 1968 he was presented posthumously the Marcus Garvey Prize for Human Rights by the Jamaican Government and the Rosa L. Parks award by the Southern Christian Leadership Conference; and he received the Aims Field-Wolf Award for his book *Stride Toward Freedom*; and

WHEREAS, recognized for his work throughout the world, Dr. Martin Luther King, Jr. was bestowed the following honorary degrees: Doctor of Humane Letters, Morehouse College; Doctor of Laws, Howard University; Doctor of Divinity, Chicago Theological Seminary; Doctor of Laws, Morgan State University; Doctor of Humanities, Central State University; Doctor of Divinity, Boston University; Doctor of Laws, Lincoln University; Doctor of Laws, University of Bridgeport; Doctor of Civil Laws, Bard College; Doctor of Letters, Keuka College; Doctor of Divinity, Wesleyan College; Doctor of Laws, Jewish Theological Seminary; Doctor of Laws, Yale University; Doctor of Divinity, Springfield College; Doctor of Laws, Hofstra University; Doctor of Humane Letters, Oberlin College; Doctor of Social Science, Amsterdam Free University; Doctor of Divinity, St. Peter's College; Doctor of Civil Law, University of New Castle, Upon Tyne; and Doctor of Laws, Grinnell College; and

WHEREAS, in addition to raising his family, ministering to his church family, working with the Southern Christian Leadership Conference, and his many national and international activities for peace and justice, Dr. Martin Luther King, Jr. wrote six books and numerous articles; and

WHEREAS, Dr. Martin Luther King Jr.'s skills as an orator helped raise the consciousness of not only this nation, but the entire world, during several of his most famous speeches including his "I have a dream" speech in 1963 during the civil rights movement March on Washington, his 1964 acceptance speech of the Nobel Peace Prize, and his final sermon "I have been to the Mountaintop" given the day before his death in Memphis; and

WHEREAS, Dr. Martin Luther King, Jr. is entombed on Freedom Plaza in Atlanta, Georgia -- a 23 acre site that was listed as a National Historic Landmark on May 5, 1977, and made a National Historic Site on October 10, 1980; and

WHEREAS, on January 18, 1986, following passage of Public Law 98-144, America paid final homage to this great American by proclaiming the third Monday in January of each year a public holiday in honor of the birthday of Dr. Martin Luther King, Jr.;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of the General Assembly, both individually and collectively, hail Dr. Martin Luther King, Jr. for his sacrifices and devotion to equality and justice for every citizen of every nation.

Section 2. The Commonwealth of Kentucky wants to add to the many accolades Dr. Martin Luther King, Jr. has received by naming one of the busiest highways in the state in his memory.

Section 3. The Transportation Cabinet is directed to name Interstate 65 in Jefferson County the "Dr. Martin Luther King, Jr. Memorial Highway."

Section 4. The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs at the Kentucky/Indiana state line, the Jefferson County/Bullitt County line, and at intervals in-between that read "Dr. Martin Luther King, Jr. Memorial Highway."

HJR 116, A JOINT RESOLUTION memorializing former Mercer County Judge/Executive Charles McGinnis and designating a portion of US 68 in Mercer County as the "Charles H. McGinnis Memorial Highway."

WHEREAS, Charles Harrison McGinnis was born October 24, 1943 in Mercer County, Kentucky, the son of David and Pauline Judd McGinnis; and

WHEREAS, Charles McGinnis, a former member of the Kentucky National Guard, was a field representative for Dairymen, Inc., and was a licensed Kentucky Auctioneer; and

WHEREAS, in 1998, Charles McGinnis was elected Judge/Executive of Mercer County, and was subsequently re-elected to a second four-year term in 2002; and

WHEREAS, Charles McGinnis was tragically stricken with cancer, which he fought bravely while tending to his duties as Judge/Executive, presiding over a meeting of Fiscal Court barely a week before his eventual passing; and

WHEREAS, Charles McGinnis traversed these earthly bonds on September 20, 2003, finally succumbing to his disease; and

WHEREAS, Charles McGinnis was lauded by many in Mercer County upon his passing; one county office holder summed up the feelings of the entire community when he said, "Charlie was a very unique person who could show a great deal of compassion to people's needs, wants, and problems, and he tried to solve them the best he could. He was able to bring diverse groups together to communicate and solve problems. He was a good leader and will be missed by a lot of people"; and

WHEREAS, Charles McGinnis is survived by his widow, Linda Mitchell McGinnis; two sons, Troy and Eric; two stepchildren, Christopher and Lydia; a grandson, Charles, and a step-granddaughter, Grace; and

WHEREAS, Charles McGinnis' passing is mourned by his family, friends, and all the citizens of Mercer county whose lives he touched during his too short time here on earth;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this body, both individually and collectively, do posthumously proclaim Charles McGinnis to be an outstanding representative of the Commonwealth, and join his family and friends in mourning his passing.

Section 2. The Transportation Cabinet is directed to designate United States Route 68 in Mercer County from the intersection with Kentucky Route 152 to the Boyle County line the "Charles H. McGinnis Memorial Highway."

Section 3. The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs at each end of the route identified in Section 2 of this Resolution, and at appropriate intervals in between, that read "Charles H. McGinnis Memorial Highway."

The Committee Amendment No. 1 to **HJR 116** is as follows:

HJR 116, On page 1, In the first WHEREAS clause, by deleting the word "David" and inserting in lieu thereof "Daniel Tucker".

HCR 124, A CONCURRENT RESOLUTION extending the reporting deadline for the Off-Road Motorcycle and All-Terrain Vehicle Task Force.

WHEREAS, during the 2002 Regular Session the General Assembly passed Senate Joint Resolution 16, enacted as 2002 KY. Acts ch. 359; and

WHEREAS, Sections 20 to 24 of that Resolution established the Off-Road Motorcycle and All-Terrain Vehicle Task Force and set a reporting deadline for the task force of September 30, 2003; and

WHEREAS, during the 2003 Regular Session the General Assembly passed Senate Concurrent Resolution 136, enacted as 2003 KY. Acts ch. 139; and

WHEREAS, that Resolution extended the Off-Road Motorcycle and All-Terrain Vehicle Task Force's reporting deadline to September 30, 2004; and

WHEREAS, the membership for this task force has not yet been appointed, leaving little time for hearings before the mandated reporting time;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Off-Road Motorcycle and All-Terrain Vehicle Task Force shall report its findings and legislative recommendations to the Legislative Research Commission no later than September 30, 2005, for action during the 2006 Regular Session of the General Assembly.

HR 140, A RESOLUTION urging the Transportation Cabinet to name the new bridge planned over Elk Fork on Kentucky Route 519 in Morgan County in memory and honor of County Judge William Lykins.

WHEREAS, the son of David and Nancy Williams Lykins, William Lykins was born in Floyd County, Kentucky on February 28, 1811; and

WHEREAS, the Lykins family relocated to Morgan County where William Lykins married Prudence Barker Lylcins on November 21, 1829; and

WHEREAS, William Lykins was the first County Judge of Morgan County and proudly served from 1850 to 1858; and

WHEREAS, William Lykins died on May 21, 1893, and he was buried at Caney, Kentucky in the Walnut Grove Cemetery;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is urged to name the new bridge planned over Elk Fork on Kentucky Route 519 in Morgan County in memory and honor of County Judge William Lykins.

Section 2. The Transportation Cabinet is urged to erect signs to each approach to the new bridge that read "Judge William Lykins Memorial Bridge."

HJR 147, A JOINT RESOLUTION naming Kentucky Route 11 in Montgomery and Powell Counties "The Veterans Highway."

WHEREAS, it is the men and women of the United States Armed Forces who have secured and maintained this nation's liberty and freedom for over 200 years; and

WHEREAS, the Armed Forces of this great nation have intervened in countless conflicts around the world to stop the spread of tyranny, overthrow murderous despots, and allow the liberties we enjoy in this great nation to flourish around the world; and

WHEREAS, time and again throughout this great nation's history, countless soldiers, sailors, airmen and Marines have served their nation with courage, diligence, and honor; and

WHEREAS, veterans deserve the everlasting gratitude, admiration, and respect of every American; and

WHEREAS, it is appropriate that Kentucky veterans are honored in a public and tangible way;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall name Kentucky Route 11 in Montgomery and Powell Counties "The Veterans Highway."

Section 2. Within 30 days of the effective date of this Resolution, the Transportation Cabinet shall erect signs designating Kentucky Route 11 in Montgomery and Powell Counties "The Veterans Highway."

The Committee on Agriculture and Small Business reported **HB 336**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 336, AN ACT relating to animals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 258 IS CREATED TO READ AS FOLLOWS:

Gunshot shall not be used as a form of euthanasia in animal shelter situations. This prohibition shall not apply to peace officers or animal control officers outside animal shelter situations if an animal:

(1) Cannot be seized;

(2) Presents a threat to the health or safety of the general public; or

(3) Has an injury or physical condition which causes the animal to suffer.

Section 2. KRS 258.005 is amended to read as follows:

As used in KRS 258.005 to ***258.087***[~~258.085 and subsections (1) and (2) of KRS 258.990~~], unless the context requires otherwise:

(1) "Dog" means any ***canine three (3) months of age or older for which there exists a United States Department of Agriculture approved rabies vaccine***[~~member of the canine family~~];

(2) "Owner[~~,~~]" ***means any person owning, keeping, or harboring a dog, cat, or ferret in Kentucky***[~~when applied to the proprietorship of a dog, includes every person having a right of property in the dog and every person who keeps or harbors the dog or has it in his care, or permits it to remain on or about premises owned or occupied by him~~];

(3) "Veterinarian" means a licensed practitioner of veterinary medicine;

(4) "Qualified person" means a person granted a permit by the secretary for health services to vaccinate ***his own dog***[~~animals~~] against rabies[~~ and may include owners or operators of licensed kennels~~];[~~ and~~]

(5) "Vaccination" means the ***administration***[~~injection~~] by a veterinarian or other qualified person of ***rabies*** vaccine approved

by[~~,~~] and administered in accordance with ***administrative***[~~the~~] regulations ***promulgated by***[~~of~~] the secretary for health services***;***

(6) "Cat " means any feline three (3) months of age or older for which there exists a United States Department of Agriculture approved rabies vaccine;

(7) "Animal control officer" means an individual employed by, or an entity that has contracted with, a city, county, urban-county, charter county, or consolidated local government who enforces the provisions of KRS 258.005 to 258.087 and local animal control ordinances;

(8) "Ferret" means any musteline three (3) months of age or older for which there exists a United States Department of Agriculture approved rabies vaccine; and

(9) "Quarantine" means the confinement of an animal for observation of clinical signs of illness indicating rabies infection, and the prevention of escape or contact with any person or other animal.

Section 3. KRS 258.015 is amended to read as follows:

(1) Every owner shall have his dog***, cat, or ferret*** initially vaccinated ***against rabies*** by the age of four (4) months and revaccinated[~~against rabies~~] at the expiration of the immunization period as certified by the veterinarian. The veterinarian[~~or qualified person~~] who vaccinates a dog***, cat, or ferret*** shall issue to the owner[~~thereof~~] a vaccination certificate on a form ***approved***[~~prescribed and supplied~~] by the Cabinet for Health Services. The vaccination certificate shall be prepared and issued in ***duplicate***[~~triplicate~~], one (1) copy to be retained by the issuing veterinarian ***and***[~~or other qualified person,~~] one (1) copy to be given to the owner of the dog***, cat, or ferret*** vaccinated[~~, and one (1) copy to be forwarded by the veterinarian or qualified person to the local health department, or, if none is maintained, to the Department for Public Health~~]. Each certificate shall bear the name and address of the veterinarian[~~or qualified person~~] who issued it. The veterinarian[~~or qualified person~~] shall also furnish each ***dog*** owner with a ***rabies***[~~metal~~] tag bearing a serial number ***corresponding to the vaccination certificate with***[~~and after January 1, 1980,~~] the year of[~~expiration of the~~] immunization[~~period~~]. The tag[~~may bear the name of the veterinarian or qualified person issuing it. It shall be affixed by the owner to a collar or harness furnished by him and~~] shall be ***affixed to a collar or harness furnished by the owner and shall be*** worn by the dog for which the ***tag***[~~certificate~~] was issued. No one except the owner or his duly authorized agent shall remove the ***tag***[~~collar with the attached tag from the dog. Prior to their initial officially recorded vaccination against rabies, all dogs shall be confined to the premises of the owner~~].

(2) Every qualified person who vaccinates his own dog shall comply with the vaccination certificate and tag requirement provisions of subsection (1) of this section.

(3) Every owner of a cat or ferret shall show proof of a valid rabies vaccination upon request of an animal control officer or peace officer.

Section 4. KRS 258.035 is amended to read as follows:

Any owner who has had his dog***, cat, or ferret*** vaccinated against rabies in another state by the proper authority[~~therein~~] shall not be required to have ***the***[~~such~~] dog***, cat, or ferret*** revaccinated when brought into this state provided the requirements of ***the***[~~such~~] state under which the vaccination was made were of a standard not lower than those required in this state***,*** and provided further that ***the***[~~such~~] dog wears a tag affixed to ***its***[~~his~~] collar or harness bearing the ***year***[~~date~~] of ***the***[~~such~~] vaccination ***and the owner of the cat or ferret shows proof of a valid rabies vaccination***. One (1) year after the date of ***the***[~~such~~] vaccination ***the***[~~such~~] dog***, cat, or ferret shall***[~~must~~] be revaccinated unless provided otherwise by ***administrative***[~~the rules and~~] regulations ***promulgated by***[~~of~~] the secretary for health services. The secretary for health services may ***promulgate administrative***[~~make rules and~~] regulations governing the matter of reciprocity with other states.

Section 5. KRS 258.043 is amended to read as follows:

(1) [~~Whenever a local board of health determines or is notified by the Cabinet for Health Services that the rabies immunization level among dogs is low in the county or any portion thereof, the~~]A local health department ***may***[~~shall~~] sponsor mass ***rabies*** immunization clinics ***and***[~~at strategic locations and intervals throughout the area designated. The local health department~~] shall contract with local veterinarians to administer the ***rabies*** vaccine. If the services of veterinarians are not available in the area, the local health department may contract with other veterinarians[~~or qualified persons designated by the Cabinet for Health Services~~]. A reasonable fee ***to be charged to the owner of each dog, cat, or ferret shall be determined by the local health department***, not to exceed five dollars ($5),[~~designated by the local board of health may be collected from each owner~~] to help defray the cost of the clinic[~~program~~].

(2)[~~Vaccination and licensing procedures may be jointly conducted at the clinics.~~

~~(3)~~] No owner shall be required to have his dog***, cat, or ferret*** vaccinated at a public clinic if he elects to have his dog***, cat, or ferret*** vaccinated privately by a veterinarian of his choice.

(3) No owner shall be required to have his dog vaccinated at a public clinic if he is a qualified person and elects to vaccinate his dog himself.

Section 6. KRS 258.055 is amended to read as follows:

If[~~Whenever~~] a local board of health has reason to believe or has been notified by the Cabinet for Health Services that there is danger that rabies may spread within the county[~~or any portion thereof~~], the board shall publish a notice requiring owners of[

~~dogs or other~~] specified animals in the *affected* area *of the county*[~~designated~~] to confine the animals for *any*[~~such~~] periods *that*[~~as~~] may be necessary to prevent the spread of rabies. If it is deemed advisable in the interest of public health, the local board of health shall order all *specified animals*[~~dogs~~] in the *affected* area *to be* revaccinated against rabies, *except animals that have been vaccinated within the past six (6) months under the provisions of KRS 258.005 to 258.087.*[~~and~~] If the local board fails or neglects to *order a revaccination*[~~do so~~], the Cabinet for Health Services *shall do so*[~~may order the revaccination of all dogs or other animals in the area except animals that have been previously vaccinated within the past six (6) months under the provisions of KRS 258.005 to 258.085~~]. The Cabinet for Health Services may aid the local health department in the execution of *any*[~~such~~] emergency vaccinations.

Section 7. KRS 258.065 is amended to read as follows:

(1) *Except as provided in subsection (2) of this section,* every physician shall, within twelve (12) hours after his first professional attendance of a person bitten by a dog, cat, *ferret,* or other animal*,* report to the local health department the name, age, sex,[~~ color,~~] and precise location of the person so bitten. If a child is bitten and no physician attends, the report shall be made by his parents or guardian. If an adult is bitten and no physician attends, he or the person caring for him shall make the report.

(2) *If the local health department is closed when a physician, parent, guardian, or other adult attends to a bitten person, the physician, parent, guardian, or other adult shall report the incident on the next working day of the health department.*

Section 8. KRS 258.075 is amended to read as follows:

The secretary for health services may administer the provisions of KRS 258.005 to *258.087*[~~258.085 and subsections (1) and (2) of KRS 258.990~~] through the local health departments and may *promulgate any administrative*[~~make such rules and~~] regulations and employ such personnel as are necessary to effectuate the purposes of KRS 258.005 to *258.087*[~~258.085 and subsections (1) and (2) of KRS 258.990~~].

Section 9. KRS 258.085 is amended to read as follows:

(1) *(a)* A health officer or his agent shall have the authority to quarantine for a period not to exceed one hundred eighty (180) days any animal bitten by another animal known or suspected to have rabies, and to quarantine for a period not to exceed ten (10) days any *dog, cat, or ferret*[~~animal~~] which has bitten a human being or which exhibits symptoms of rabies.[~~ An animal so quarantined may be confined by the health officer at a designated place at the owner's expense.~~]

(b) *In lieu of the quarantines provided in paragraph (a) of this subsection, a health officer or his agent may order an animal to be destroyed and tested for rabies.*

(c) *If a wild or exotic animal bites a human being or exhibits symptoms of rabies, that animal shall be destroyed and tested for rabies.*

(2) *If an animal*[~~Whenever a dog~~] dies with rabies*,*[~~ or~~] is suspected of having died with rabies*,* or is destroyed because of having been suspected of being rabid, the owner*, if known*[~~ thereof~~], whether the *animal*[~~dog~~] had been previously quarantined or not, shall[~~ at his own expense~~] send the head of *the animal*[~~such dog~~] to a laboratory approved by the secretary for health services *to be tested for rabies*[~~in the manner prescribed by the rules and regulations of the secretary for health services~~].

(3) *(a)* *The owner of any animal quarantined or tested under this section shall be liable for any expenses incurred as a result of the quarantine or testing.*

(b) *Any owner who destroys or disposes of an animal that has bitten a human being shall be liable for any rabies postexposure treatment if the animal is destroyed or disposed of in a manner that does not allow for rabies testing or quarantine.*

Section 10. KRS 258.087 is amended to read as follows:

Any city*, county, urban-county, charter county, or consolidated local government*[~~ legislative body or fiscal court~~] may, by the adoption of an appropriate ordinance or resolution, provide for more stringent regulation of rabies control in dogs, cats, *ferrets,* and other animals than set forth in *KRS 258.005 to 258.087*[~~this chapter~~].

Section 11. KRS 258.095 is amended to read as follows:

As used in KRS 258.095 to *258.500*[~~258.365 and KRS 258.990(3) and (4)~~], unless the context requires otherwise:

(1) "Department" means the Department of Agriculture;

(2) "Commissioner" means the Commissioner of Agriculture;

(3) *"Board" means the Animal Control Advisory Board created by Section 12 of this Act*[~~"Committee" means the advisory committee created by KRS 258.115~~];

(4) "Dog" means any *domestic*[~~member of the~~] canine[~~ family~~], six (6) months of age or *older*[~~over~~];

(5) "Owner," when applied to the proprietorship of a dog, includes every person having a right of property in the dog and every person who keeps or harbors the dog, or has it in his care, or permits it to remain on or about premises owned or occupied by him;

(6)[~~ "Livestock" includes horses, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids, swine, and confined and domesticated hares and rabbits;~~

~~(7) "Poultry" includes all domesticated fowl and all game birds which are legally kept in captivity;~~

~~(8) "Kennel" means any establishment where dogs are kept for the purpose of breeding, sale, show or sporting purposes, and which is so constructed that dogs cannot stray therefrom;~~

~~(9) "Livestock fund" means the fund created by KRS 258.125 for the purpose of administering its provisions;~~

~~(10)~~] "Attack" means a dog's attempt to bite or successful bite of a human being. This definition shall not apply to a dog's attack of a person who has illegally entered or is trespassing on the dog owner's property in violation of KRS 511.060, 511.070, 511.080, or 511.090;

(7)[~~(11)~~] "Vicious dog" means any individual dog declared by a court to be a vicious dog;

(8)[~~(12)~~] "Animal control officer" means an individual employed by***, or an entity that has contracted with,*** a city, county, urban-county***,***[~~ government, or~~] charter county***,*** ***or consolidated local*** government who enforces the provisions of ***KRS 258.095 to 258.500***[~~this chapter~~] and local ***animal***[~~dog~~] control ordinances;[~~ and~~]

(9)[~~(13)~~] "Designated license facility" means any person, facility, or business designated by resolution of the ***governing body of the county***[~~fiscal court~~] to collect license fees under KRS 258.135***;***

(10) "Cat" means any domestic feline three (3) months of age or older;

(11) "Ferret" means any domestic musteline three (3) months of age or older;

(12) "Euthanasia" means the act of putting an animal to death in a humane manner by a method specified as acceptable by the American Veterinary Medical Association Panel on Euthanasia, subject to the requirements provided by Section 1 of this Act;

(13) "Animal shelter" means any facility used to house or contain animals, operated or maintained by a governmental body, an incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization; and

(14) "Quarantine" means the confinement of an animal for observation of clinical signs of illness indicating rabies infection, and the prevention of escape or contact with any person or other animal.

Section 12. KRS 258.117 is amended to read as follows:

(1) The Animal Control Advisory Board is hereby created for the purposes of making recommendations to the commissioner relating to evaluating applications for and reviewing disbursements from the animal control and care fund,[~~ establishing shelter standards,~~] creating training programs, and other duties relating to animal control and care in the counties of the Commonwealth.

(2) The advisory board shall be attached to the Kentucky Department of Agriculture for administrative purposes.

(3) The advisory board shall be composed of the following members appointed by the Governor as specified:

(a) Two (2) members selected from a list of three (3) submitted by the Kentucky Animal Control Association;

(b) Two (2) members selected from a list of three (3) submitted by the Kentucky Veterinary Medical Association;

(c) Two (2) members selected from a list of three (3) submitted by the Kentucky Farm Bureau;

(d) Two (2) members selected from a list of three (3) submitted by the Kentucky Association of Counties;

(e) Two (2) members selected from a list of three (3) submitted by the Kentucky Houndsmen Association; and

(f) Two (2) members selected from a list of three (3) submitted by the Kentucky League of Cities.

(4) Appointed members shall serve for a term of four (4) years. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term.

(5) Members of the advisory board shall receive one hundred dollars ($100) per day for attendance at meetings and shall be entitled to reimbursement for expenses incurred for travel. No per diem or travel expenses shall be paid except for meetings of the full advisory board.

(6) The advisory board shall elect one (1) of its members to serve as chair for a term of two (2) years.

(7) The advisory board shall meet quarterly ***or upon the call of the chair***.

(8) The commissioner shall carry out the recommendations of the advisory board.

Section 13. KRS 258.119 is amended to read as follows:

(1) The "Animal Control and Care Fund" is hereby created as a special fund in the State Treasury. The fund may also receive gifts, grants from public and private sources, state appropriations, and federal funds. Any unalloted or unencumbered balances in this fund shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be credited to the fund. Any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year, and moneys in this fund shall be continuously appropriated only for the purposes specified in this section.

(2) Moneys from the fund shall be used by the Animal Control Advisory Board for board expenses, for the creation and support of statewide programs related to animal control and care, and for training[~~ dog wardens and~~] animal control

officers. "Statewide programs" includes, but is not limited to, the reimbursement of costs for preexposure rabies vaccinations for all animal control and care workers. When determining the distribution of the moneys relating to training, the need of the applicant shall be one (1) of the criteria considered by the board. Based on recommendations of the Animal Control Advisory Board, any moneys not expended under this subsection may be distributed annually as grants to counties with an established animal control and care program meeting the requirements of subsection (3) of this section or approved plan to establish an animal control and care program under subsection (4) of this section.

(3) As used in this section, "animal control and care program" means a program in which the county:

(a) Employs ***or contracts with***[~~a dog warden or~~] an animal control officer as required by KRS 258.195, who is a high school graduate and has completed the training requirements set forth by the Animal Control Advisory Board; and

(b) Maintains ***an***[~~a dog pound or~~] animal shelter, ***enters into an intergovernmental agreement for the establishment of a regional animal shelter,*** or contracts with an ***entity authorized to maintain sheltering and animal control services***[~~adjoining county~~], to provide services that:

1. Segregate male and female animals ***by species*** in runs and holding areas;
2. Provide separate runs or holding areas for ill or injured animals***. An ill or injured animal shall be treated with proper veterinary care or euthanized***;
3. Provide quarantine for dogs and cats presented to the shelter when quarantine by the owner is not feasible or desirable, the cost of quarantine to be borne by the animal owner at the shelter's regular housing costs and fees. Quarantined dogs and cats shall be held in isolation for observation of symptoms of rabies for a period of ten (10) days from the date the dog or cat bit[~~ or scratched~~] a person. If the dog or cat dies or is euthanized while in quarantine, it shall be submitted to the local health department for testing for the presence of the rabies virus. The cost of the testing shall be borne by the animal owner or the local health department may bear the cost at its discretion;
4. Provide holding areas with protection from the weather, including heated quarters during cold weather***. Holding areas shall be free of debris or standing water, shall provide adequate lighting, ventilation, and sanitary conditions to promote a safe, healthy environment, and shall provide adequate space to allow for normal movement, including standing to full height, sitting, turning, and lying down in a natural position without coming in contact with the top or sides of the enclosure or another animal***;
5. Provide runs and cages built of materials which can be readily cleaned and disinfected, including floors made of an impervious material[~~ or a minimum of three (3) inches of gravel~~];
6. Provide access to the public for no less than twenty-four (24) hours in one (1) week, with the hours that the facility is open to the public posted in a visible location;
7. Employ euthanasia methods recommended by the American Veterinary Medical Association ***Panel on Euthanasia***;[~~ and~~]
8. Provide ***potable, uncontaminated water to every animal at all times, and palatable, uncontaminated food daily; and***
9. ***Maintain a record on each animal impounded. Records shall be maintained for a period of two (2) years and shall include:***
    - ***a. Date impounded;***
    - ***b. Location found or picked up;***
    - ***c. Sex of animal and spay or neuter status, if known;***
    - ***d. Breed or description, and color; and***
    - ***e. Date reclaimed, adopted, or euthanized***[~~other minimum standards as developed by the Animal Control Advisory Board and approved by the commissioner~~].

(4) Counties submitting plans proposing to establish an animal control and care program for approval by the Animal Control Advisory Board shall comply with the requirements of:

(a) Paragraph (a) of subsection (3) of this section within twelve (12) months of the date the documentation is submitted; and

(b) Paragraph (b) of subsection (3) of this section within twenty-four (24) months of the date the documentation is submitted.

(5) To be eligible for any moneys distributed as grants to counties under subsection (2) of this section, counties shall submit an application to the commissioner, on a form prescribed by the Department of Agriculture, by July 15 of each year. Moneys shall be used for construction, equipment, educational supplies, and other uses or programs approved by the advisory board, but shall not be used to increase wages of ***animal control officers***[~~dog wardens~~] or other personnel. Counties receiving money from the Department of Agriculture shall comply with the terms of the plan or program. If the terms of the plan or program are not complied with, the county shall refund the money to the Department of Agriculture.

[~~(6) The commissioner shall promulgate administrative regulations that relate to the animal control and care fund provisions of~~

~~this section.~~]

Section 14. KRS 258.135 is amended to read as follows:

(1) ***The governing body of each county may establish an animal licensing program by ordinance. It shall be the responsibility of each county to administer and enforce its licensing program***[~~On or before July 1, 1954, and on or before July 1 of each year thereafter, the owner of any dog six (6) months old or over shall apply to the dog warden or designated license facility of the county in which he resides for a license for each dog owned or kept by him. The application shall be accompanied by a license fee of one dollar and fifty cents ($1.50) for each dog, except as provided in KRS 258.500. Any license issued for the year of 1954 before July 1, 1954, shall be effective until July 1, 1955. Dog wardens and designated license facilities shall be agents of the Commonwealth in the collection of the license fees, unless the department determines, with the approval of the Governor, to issue all licenses either directly or through other agents. For services rendered in collecting and paying over the fee, dog wardens or designated license facilities shall be allowed to retain the sum of twenty-five cents ($0.25) for each license. The balance of the license fee collected shall be paid to the department quarterly and shall be credited to the livestock fund. If the committee finds it to be in the interest of maximum enforcement of this chapter to permit certain other portions of the license fee to be retained by the respective counties for use in enforcement, the department may allow these portions of the license fee to be so retained by the counties~~].

(2) ***In addition to the licensing program provided in subsection (1) of this section,*** any ***city***[~~county~~] may ***establish an animal licensing program by ordinance. It shall be the responsibility of the city to administer and enforce its licensing program***[~~choose to issue additional licenses in conjunction with effective dates of a valid rabies vaccination, provided the dog shall be licensed each fiscal year~~].

Section 15. KRS 258.195 is amended to read as follows:

(1) ***The governing body***[~~On or before July 1, 1954, the fiscal court~~] of each county shall employ ***or contract with an animal control officer and***[~~a dog warden. On or before July 1, 1955, the fiscal court of each county~~] shall establish and maintain ***an animal shelter***[~~a dog pound~~] as a means of facilitating and ***administering KRS 258.095 to 258.500. One (1) or more counties may enter into intergovernmental agreements for the establishment of regional animal shelters, or may contract with entities authorized to maintain sheltering and animal control services. Animal shelters shall meet the standards provided by subsection (3)(b) of Section 13 of this Act within two (2) years after the effective date of this Act. Governing bodies may adopt additional standards and ordinances related to public health, safety, enforcement, and the efficient and appropriate operation of their shelters and their animal control programs***[~~administration of this chapter. In counties of small population, arrangements may be made for the joint establishment and operation of dog pounds by two (2) or more counties on a mutually satisfactory basis. Instead of setting up pounds, one (1) or more counties acting jointly may take advantage of the facilities of suitable pounds already in operation by counties, cities, humane societies, or other organizations or individuals. Fiscal courts may adopt and enforce regulations relative to pound standards, the naming of persons who shall serve as dog wardens, providing for the fixing of salaries of wardens and assistants, and such other matters that may be incidental to efficient and proper operation of the dog pound plan~~].

(2)[~~As a means of providing a portion of the funds for setting up and operating dog pounds, fifty cents ($0.50) out of the one dollar and fifty cents ($1.50) paid for every dog license sold in each county shall be credited by the department to a special enforcement fund to be refunded to the respective counties on a pro rata basis determined by the licenses sold in each county, and shall be used in meeting expenses of the dog warden and the dog pound plan.~~

~~(3) Dog wardens may be designated as agents of the department for purposes of appraising livestock losses pursuant to KRS 258.275.~~

~~(4)~~] Cities[~~, counties, urban-county governments, or charter county governments~~] may employ ***or contract with*** animal control officers for the enforcement of this chapter and local ***animal***[~~dog~~] control ordinances within their corporate limits. Cities[~~, urban-county governments, or charter county governments~~] may enter into agreements with the counties for the enforcement of the county's ***animal control*** ordinances. The agreement shall include, but shall not necessarily be limited to, setting out the jurisdiction and the duties of the ***animal control*** officer[~~ or warden~~] respective to the agreement.

(3)[~~(5)~~] [~~Dog wardens and ~~]Animal control officers shall have the authority to issue [~~uniform ~~]citations only for the enforcement of the provisions of this chapter ***and animal***[~~or dog~~] control ordinances in their respective jurisdictions.

Section 16. KRS 258.215 is amended to read as follows:

(1) Peace officers[~~, dog wardens,~~] or animal control officers shall seize and impound any dog which does not bear a ***valid rabies***[~~proper license~~] tag or other legible identification which is found running at large[~~, but if an officer, dog warden, or animal control officer, after diligent effort to do so, should fail to seize the dog, it shall then become his duty to destroy the dog by any reasonable and humane means~~]. Any dog which an officer[~~, dog warden,~~] or animal control officer seizes shall be impounded ***in the designated animal shelter of the county and confined in a humane manner. If, after a reasonable effort, the seizure of an unrestrained dog cannot be made, or the dog presents a hazard to public safety or property or has an injury or physical condition which causes the dog to suffer, the animal control officer or peace officer may immediately destroy the dog by the most reasonable and humane means then available.***

(2) ***(a)*** ***Impounded dogs shall be kept*** for ***not less than***[~~a period of~~] five (5)[~~ or seven (7)~~] days, ***unless reclaimed by their owners. Dogs not reclaimed and those not placed in suitable new homes may be humanely euthanized after the five (5) day holding period, unless the dog has an injury or physical condition which causes it to suffer. In those***

cases the animal shelter may immediately euthanize the dog, and if a human being has been bitten by the dog, the dog shall be tested for rabies.

(b) If an owner is identified, the impounding agency shall immediately notify the owner of the impoundment by the most expedient means available[~~to be determined by the local animal shelter. If the dog is not claimed by the owner or sold in accordance with other provisions of this chapter, then the dog may be destroyed in some humane manner~~].

(c) Any animal shelter, public or private, which takes in stray ***animals***[~~dogs~~] and does not have regular hours for public access, shall post semimonthly either in a local newspaper or the newspaper with the highest circulation in the county, the shelter location, hours of operation, the period that impounded ***animals***[~~dogs~~] shall be held, and a contact number.

(3) Upon reclaiming an impounded dog, cat, or ferret, the owner shall show proof of a valid rabies vaccination. If proof of the vaccination cannot be provided, the owner shall purchase a vaccination voucher from the animal shelter. The voucher shall be valid for ten (10) days from the date of issuance and shall be used in the prescribed time period. The animal shelter shall reimburse the veterinarian for the amount of the voucher upon presentation to the shelter by the administering veterinarian.

(4) The owner of an impounded dog, cat, or ferret is responsible for all fees associated with the impoundment of the dog, cat, or ferret. If the owner can be identified, the fees are due even if the owner does not reclaim the dog, cat, or ferret.

(5) Dogs, cats, or ferrets which have bitten a person shall be maintained in quarantine by the owner for ten (10) days from the date of the bite. Owners who fail to properly quarantine their animals shall be subject to a citation for violation of this subsection and the dog, cat, or ferret shall be removed to the animal shelter for the remainder of the quarantine period. The owner shall be responsible for all associated fees of the quarantine and impoundment.

(6)[~~(2)~~] A hound or other hunting dog which has been released from confinement for hunting purposes shall be deemed to be under reasonable control of its owner or handler while engaged in or returning from hunting, and, if a hunting dog becomes temporarily lost from a pack or wanders from actual control or sight of its owner or handler, the owner or handler shall not be deemed to be in violation of the provisions of this section as a result of the dog's having become temporarily lost or having wandered from immediate control or sight of the owner or handler.

Section 17. KRS 258.225 is amended to read as follows:

(1) It shall be unlawful for any peace officer[~~, dog warden,~~] or animal control officer to refuse to perform his duties under the provisions of this chapter[~~, or to refuse to assist in the enforcement of this chapter upon request of the Commissioner~~].

(2) It shall be unlawful for any person to interfere with any ***peace*** officer,[~~ dog warden, or~~] animal control officer, or agent in the enforcement of this chapter.

Section 18. KRS 258.235 is amended to read as follows:

(1) Any person***, without liability,*** may kill or seize any dog which ***is observed attacking any person*** [~~he sees in the act of pursuing or wounding any livestock, or wounding or killing poultry, or attacking human beings, whether or not such dog bears the license tag required by the provisions of this chapter. There shall be no liability on such person in damages or otherwise for killing, injuring from an attempt to kill, or for seizing the dog~~].

(2) Any ***livestock owner or his agent, without liability, may kill any dog trespassing on that owner's property and observed in the act of pursuing or wounding his livestock***[~~unlicensed dog, not accompanied by its owner or keeper, that enters any field or inclosure where livestock or poultry are confined shall constitute a private nuisance and the owner or tenant of such field or inclosure, or his agent or servant, may kill or seize such dog while it is in the field or inclosure, without liability or responsibility of any nature for killing, injuring from an attempt to kill, or for seizing the dog~~].

(3) Any dog ***determined to be vicious by a court and allowed to be returned to an owner shall be confined in a locked enclosure at least seven (7) feet high or a locked kennel run with a secured top. The dog may leave the enclosure only to visit the veterinarian or to be turned in to an animal shelter. The dog shall be muzzled if leaving the enclosure for either of these purposes***[~~deemed in violation of this section and seized by a property owner or his agent shall be surrendered over to the dog warden, animal control officer, or a peace officer for impoundment as stipulated in KRS 258.215~~].

(4) ***Any owner whose dog is found to have caused damage to a person, livestock, or other property shall be responsible for that damage***[~~Subsection (2) of this section shall not apply to licensed dogs, when accompanied by their owner or handler, unless caught in the act of wounding or killing any livestock, or wounding or killing poultry, or attacking human beings~~].

(5) (a) Any person who has been attacked by a dog, or anyone ***acting on behalf of that***[~~for such~~] person, may make a complaint before the district court, charging the owner or keeper of ***the***[~~such~~] dog with harboring a vicious dog. A copy of ***the***[~~such~~] complaint shall be served upon the person so charged in the same manner and subject to the laws regulating the service of summons in civil actions directing him to appear for a hearing of ***the***[~~such~~] complaint at a time fixed ***in the complaint***[~~therein~~]. If ***the***[~~such~~] person fails to appear at the time fixed, or if upon a hearing of the parties and their witnesses, the court finds the person so charged is the owner or keeper of the dog in question, and that the dog has viciously and without cause, attacked a human being when off the premises of the owner or keeper, the person shall be subject to the penalties set forth in KRS 258.990(3)(b), and the court shall further order the

owner or keeper to~~[henceforth]~~ keep the dog securely confined ***as provided by subsection (3) of this section***~~[by chain leash or enclosed pen of sufficient strength to securely restrain the dog from being a public threat]~~, or the court may order the dog to be destroyed.

(b) The~~[dog warden or duly appointed]~~ animal control officer shall act as an officer of the court for the enforcement of any orders of the court in ***his***~~[their]~~ jurisdiction pertaining to this subsection.

(6) For his services in ***the***~~[such]~~ proceedings, ***a***~~[the]~~ peace officer shall be entitled to the same fees to which he is entitled for performing similar services in civil cases. In all proceedings under this section, ***the***~~[such]~~ court shall place the costs upon either party as ***it***~~[he]~~ may determine.

(7) It shall be unlawful for the owner or keeper of any vicious dog***,*** after receiving an order under subsection (5) of this section, to permit ***the***~~[such]~~ dog to run at large, or to appear ***in public except as provided in subsection (3) of this section***~~[on the public highways unless in leash]~~. Any ***vicious***~~[such]~~ dog found running at large may be killed by any~~[dog warden,]~~ animal control officer~~[,]~~ or peace officer without liability for damages for ***the killing***~~[such killings]~~.

Section 19. KRS 258.245 is amended to read as follows:

All ***dogs that have a valid rabies vaccination and bear identification***~~[licensed dogs]~~ are hereby declared to be personal property and subjects of larceny. Except as provided in KRS 258.235, it shall be unlawful for any person~~[,]~~ except a peace officer~~[, dog warden,]~~ or animal control officer to destroy, or attempt to destroy, any dog ***that***~~[which]~~ bears ***identification***~~[a license tag for the current year]~~.

Section 20. KRS 258.255 is amended to read as follows:

Every female dog in heat shall be confined in a building or secure enclosure in such a manner that the female dog cannot come in contact with a male dog except for a planned breeding~~[It shall be unlawful for the owner or keeper of any female dog to permit her to go beyond the premises of such owner or keeper at any time she is in heat, unless she is properly in leash]~~.

Section 21. KRS 258.265 is amended to read as follows:

(1) ***An owner shall exercise proper care and control of his dog to prevent the dog from violating any local government nuisance ordinance***~~[The owner or keeper of every dog shall at all times between the hours of sunset and sunrise of each day keep such dog:~~

~~(a) Confined within an inclosure from which it cannot escape, or~~

~~(b) Firmly secured by means of a collar and chain or other device so that it cannot stray beyond the premises on which it is secured, or~~

~~(c) Under the reasonable control of some person or, when engaged in lawful hunting accompanied by an owner or handler. A hound or other hunting dog which has been released from confinement for hunting purposes shall be deemed to be under reasonable control of its owner or handler while engaged in or returning from hunting, and, if such a hunting dog becomes temporarily lost from a pack or wanders from actual control or sight of its owner or handler, such owner or handler shall not be deemed to be in violation of the provisions of this section as a result of such dog's having become temporarily lost or having wandered from immediate control or sight of the owner or handler]~~.

(2) Any peace officer~~[, dog warden,]~~ or animal control officer may seize or destroy any dog found running at large between the hours of sunset and sunrise and unaccompanied and not under the control of ***its*** owner or handler. ~~[However,]~~A peace officer~~[, dog warden,]~~ or animal control officer shall be under a duty to make a fair and reasonable effort to determine whether any dog found at large between sunset and sunrise is a hound or other hunting dog which has become lost temporarily from a pack or wandered from immediate control of its owner, or handler, and if he is reasonably sure that the dog is a hunting dog, then he shall not destroy the dog, unless it is found in the act of pursuing or wounding livestock, or wounding or killing poultry, or attacking human beings.

(3) A hound or hunting dog may be unrestrained when engaged in lawful hunting activities while on private or public property designated or authorized for that purpose.

Section 22. KRS 258.365 is amended to read as follows:

Nothing in this chapter shall be construed to prohibit or limit the right of any ***governing body***~~[city]~~ to pass or enforce any ordinance with respect to the regulation of dogs ***or other animals***, the provisions of which are not inconsistent with the provisions of this chapter. Nothing in this chapter shall be construed to repeal any of the provisions of the fish and game laws of the Commonwealth of Kentucky now in effect, nor any laws relating to the powers and duties of the secretary for health services, or any health officer relating to ***rabid animals or animals***~~[mad dogs or dogs]~~ affected with any disease, or to prohibit the destroying of ***any animal***~~[licensed or unlicensed dogs]~~ in accordance with the provisions of any quarantine regulations, made in accordance with the provisions of any local or state health law.

Section 23. KRS 258.500 is amended to read as follows:

(1) As used in subsections (1) to (11) of this section, "person" means a "person with a disability" as defined by KRS 210.770. "Person" also includes a trainer of an assistance dog.

(2) If a person is accompanied by an assistance dog, neither the person nor the dog shall be denied admittance to any hotel, motel, restaurant, or eating establishment, nor shall the person be denied full and equal accommodations, facilities, and

privileges of all public places of amusement, theater, or resort when accompanied by an assistance dog.

(3) Any person accompanied by an assistance dog shall be entitled to full and equal accommodations on all public transportation, if the dog does not occupy a seat in any public conveyance, nor endanger the public safety.

(4) No person shall be required to pay additional charges or fare for the transportation of any accompanying assistance dog.

(5) No person accompanied by an assistance dog shall be denied admittance and use of any public building, nor denied the use of any elevator operated for public use.

(6) Any person accompanied by an assistance dog may keep the dog in his immediate custody while a tenant in any apartment, or building used as a public lodging.

(7) The provisions of this section shall not apply unless the assistance dog has been trained or is being trained by a recognized training agency or school, and is properly harnessed.

(8) (a) Except as provided in paragraph (b) of this subsection, all persons accompanied by an assistance dog shall have in their personal possession a certificate issued by the assistance dog training agency or school establishing that their dogs have been so trained.

(b) All trainers accompanied by an assistance dog shall have in their personal possession identification verifying that they are trainers of assistance dogs.

(9) The provisions of this section shall not apply unless the person complies with the legal limitations applicable to nondisabled persons and unless all requirements of KRS 258.015 *and*~~[,]~~ 258.135~~[and 258.145]~~ have been complied with.

(10) Assistance dogs are exempt from all state and local licensing fees.

(11) Licensing authorities shall accept that the dog for which the license is sought is an assistance dog when a copy of the certificate, as required under subsection (8) of this section, is attached to the licensing form.

(12) No person shall willfully or maliciously interfere with an assistance dog or the dog's user.

Section 24. KRS 258.990 is amended to read as follows:

(1) Any person who violates KRS 258.015, 258.035, 258.055, 258.065*,* or 258.085~~[,]~~ shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). Each day of violation shall constitute a separate offense.

(2) The owner of any dog*, cat, or ferret which bites a human being*~~[not vaccinated according to the provisions of this chapter]~~ shall be liable to pay all damages for personal injuries resulting from the bite of *the*~~[such]~~ dog, *cat, or ferret*~~[if rabid]~~.

(3) (a) Any person violating or failing or refusing to comply with KRS 258.095 to 258.365~~[and subsections (3) and (4) of this section]~~, except KRS 258.235(5)(a), shall, upon conviction, be fined not less than five dollars ($5) *nor*~~[and not]~~ more than one hundred dollars ($100)*,* or be imprisoned *in the county jail* for not less than five (5) nor more than sixty (60) days*,* or both~~[so fined and imprisoned]~~.

(b) Any person violating KRS 258.235(5)(a) shall be punished by a fine of not less than fifty dollars ($50) nor more than two hundred dollars ($200), or by imprisonment in the county jail for not less than ten (10) nor more than sixty (60) days, or~~[by]~~ both~~[fine and imprisonment]~~.

~~[(4) All fines collected under subsection (3) of this section shall after costs and commissions have been deducted, be paid to the department to be credited to the livestock fund.]~~

Section 25. KRS 67.592 is amended to read as follows:

(1) The county judge/executive shall designate the sheriff of the county, or, if there is a county police department, may designate the chief of the county police, as custodian of all property:

(a) Alleged to be or suspected of being the proceeds of crime;~~[or]~~

(b) Alleged to be or suspected of having been used to facilitate the commission of a crime;~~[or]~~

(c) Which is subject to confiscation or forfeiture, excluding property subject to forfeiture pursuant to KRS Chapter 218A, or both, under any provision of the Kentucky Revised Statutes;~~[or]~~

(d) Which is taken from the person of a prisoner, except for *any*~~[such]~~ personal property *that*~~[as]~~ may be in the custody of a prisoner upon his admission to jail, in which case all property which he is not permitted to retain upon admission to jail shall be placed in the custody of the jailer;~~[or]~~

(e) Which is lost or abandoned and taken into custody by any peace officer, or the courts; or

(f) Which is taken from persons supposed to be insane, intoxicated, or otherwise incapable of taking care of themselves.

(2) Any peace officer, except for the Kentucky State Police, or court having custody of the property shall, as soon as practicable, deliver it into the custody of the property clerk.

(3) The sheriff or chief of county police designated as custodian of property shall appoint from persons on his staff, or may employ, a person to serve as property clerk and other persons necessary as deputy property clerks.

(4) All the property shall be particularly described and registered by the property clerk, or his deputy, in a book kept for that

purpose, containing the name of the owner, if ascertained, the place where found, the name of the person from whom it was taken, with the general circumstances of its receipt, the name of the officer recovering the property, the names of all claimants ***to the property***[~~thereto~~], and any final disposition of the property. The property clerk shall advertise the property, if it is not the subject of a forfeiture proceeding, as to the amount and disposition of the property.

(5) The fiscal court of the county may prescribe regulations in regard to the duties of the property clerk and his deputies, and require security for the faithful performance of the duties imposed by this section.

(6) All animals stolen, strayed, lost, or confiscated that come into the possession of the property clerk shall be sent to ***an animal shelter***[~~a public pound~~] located within the county, if there is one, or if there is none to ***an animal shelter***[~~a public pound~~] in another county.

(7) No property shall be delivered to the property clerk or his deputy except as provided in this section.

(8) No property shall be disposed of by the property clerk or his deputy except in the manner prescribed by law.

(9) The provisions of this section shall apply in all unincorporated areas of a county and in all cities which do not appoint a property custodian pursuant to KRS 95.845.

Section 26. KRS 212.625 is amended to read as follows:

Each city-county board of health created by KRS 212.350 shall establish, maintain***,*** and operate ***an animal shelter***[~~a public pound~~] for animals in which, except as otherwise provided by law, shall be impounded all stray, vicious***,*** or diseased animals taken up or collected in ***the***[~~such~~] county, whether in incorporated or unincorporated areas, by any public officer or authority or by any other person. Each[~~ such~~] board shall, throughout the county, including all municipalities ***within the county***[~~therein~~], enforce all statutes, ordinances of cities, orders or resolutions of the fiscal court of the county***,*** and regulations of ***the***[~~such~~] board or any other governmental body or agency authorized to ***promulgate***[~~adopt such~~] regulations, relating to the taking up, collection***,*** and impounding of stray, vicious***,*** or diseased animals. Each[~~ such~~] board may promulgate and enforce reasonable and necessary[~~ rules and~~] regulations providing for the collection and impounding of[~~ such~~] animals and governing the use and operation of ***animal shelters***[~~such public pounds~~].

Section 27. KRS 257.100 is amended to read as follows:

(1) Any peace officer***, animal control officer,*** or any officer of the accredited Humane Society or Society for the Prevention of Cruelty to Animals may destroy or kill or cause to be destroyed or killed, any animal found abandoned and suffering and not properly cared for, or appearing to be injured, diseased***,*** or suffering past recovery for any useful purpose.

(2) Before destroying the animal the officer shall obtain the judgment to that effect of a veterinarian, or of two (2) reputable citizens called by him to view the animal in his presence, or shall obtain consent to the destruction from the owner of the animal.

(3) (a) Any animal placed in the custody of a licensed veterinarian for treatment, boarding***,*** or other care, which shall be unclaimed by its owner or his agent for a period of more than ten (10) days after written notice by certified mail, return receipt requested, is given the owner or his agent at his last known address, shall be deemed to be abandoned and may be turned over to the nearest humane society[~~, dog pound~~] or animal shelter or disposed of as ***the***[~~such~~] custodian may deem proper.

(b) The giving of notice to the owner, or the agent of the owner of ***the***[~~such~~] animal by the licensed veterinarian[~~, as provided herein~~] shall relieve the licensed veterinarian and any custodian to whom ***the***[~~such~~] animal may be given of any further liability for disposal.

(4) For the purpose of this section, the term "abandon" ***means***[~~shall mean~~] to forsake entirely, or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner, or his agent.[~~ Such~~] Abandonment shall constitute the relinquishment of all rights and claims by the owner to ***the***[~~such~~] animal.

Section 28. KRS 321.181 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the Kentucky Board of Veterinary Examiners;

(2) "Animal" means any animal, except human beings;

(3) "Compensation" includes any gift, bonus, fee, money, credit, or other thing of value;

(4) "Veterinarian" means a practitioner of veterinary medicine who is duly licensed in the Commonwealth of Kentucky;

(5) "Practice of veterinary medicine" means:

(a) To diagnose, treat, correct, change, relieve, or prevent: animal disease, deformity, defect, injury, or other physical or mental conditions, including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique, and the use of any manual or mechanical procedure for testing for pregnancy, or for correcting sterility or infertility, or to render advice or recommendation with regard to any of the above;

(b) To engage in veterinary surgery, obstetrics, embryo transfer, dentistry, acupuncture, manipulation, and all other branches or specialties of veterinary medicine and the prescribing, administering, or dispensing of drugs and medications for veterinary purposes, in accordance with the applicable federal statutes and regulations governing controlled prescription and legend drugs; and

(c) To use any title, words, abbreviation, or letters in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in paragraphs (a) and (b) of this subsection;

(6) "Embryo transfer" means to remove any embryo from any animal for the purpose of transplanting the embryo into another female animal or for the purpose of cryopreserving the embryo, or to implant the embryo into any animal, including food and companion animals;

(7) "Chemical restraint" means the use of any prescription or legend drug that restrains or tranquilizes the animal;

(8) "Direct supervision" means the veterinarian is on the premises, and is quickly and easily available, and the animal has been examined by a veterinarian at the times acceptable veterinary medical practice requires, consistent with the particular delegated animal health care tasks;

(9) "Indirect supervision" means the veterinarian does not have to be on the premises as long as a valid veterinary/client/patient relationship has been established and the veterinary technologist, veterinary technician, or veterinary assistant has been instructed on the applicable animal health care tasks in accordance with KRS 321.441 and 321.443;

(10) "Emergency" means the animal has been placed in a life threatening condition and immediate treatment is necessary to sustain life;

(11) "Impaired veterinarian program" means the Kentucky Veterinary Medical Association sponsored program for the identification, intervention, and monitoring of veterinarians impaired as a result of alcoholism, chemical dependence, or drug abuse;

(12) "Veterinary medical impairment committee" means a committee of the Kentucky Veterinary Medical Association, comprised of individuals who have expertise in the areas of alcoholism, chemical dependence, drug abuse, or physical or mental illness, that has been designated by the Kentucky Veterinary Medical Association to perform activities related to the impaired veterinarian program;

(13) "Veterinary technologist" means a person who has successfully completed an accredited program of veterinary technology approved by the board and who is registered in accordance with KRS 321.441;

(14) "Veterinary technician" means a person who has an associate degree related to veterinary sciences, or its equivalent as approved by the board, and who is registered in accordance with KRS 321.441;

(15) "Veterinary assistant" means a lay person employed by a licensed veterinarian in accordance with KRS 321.443;

(16) "Certified animal control agency" means a county or municipal animal shelter[~~, dog pound,~~] or animal control agency; private humane society; state, county, or municipal law enforcement agency; or any combination ***of those entities***[~~thereof~~] that temporarily houses stray, unwanted, or injured animals and that is certified under the provisions of KRS 321.207; and

(17) "Certified animal euthanasia specialist" means a person employed by a certified animal control agency who is authorized by the board, under KRS 321.207, to humanely euthanize animals by administering drugs designated by the board for euthanasia.

Section 29. KRS 436.605 is amended to read as follows:

(1) ***Animal control officers***[~~Dog wardens~~] and officers and agents of humane societies ***who are employed by or have contracted with a city, county, urban-county, charter county, or consolidated local government to provide animal sheltering or animal control services*** shall have the powers of peace officers for the purpose of enforcing the provisions of the Kentucky Revised Statutes relating to cruelty and mistreatment of animals, provided they possess the qualifications required under KRS 61.300.

(2) ***When*** any peace officer, ***animal control officer,*** or any officer or agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth ***who is employed by or has contracted with a city, county, urban-county, charter county, or consolidated local government to provide animal sheltering or animal control services makes an***[~~, who shall make~~] oath before any judge of a District Court that he has reasons to believe or does believe that an act of cruelty to animals is being committed in a building, barn***,*** or other enclosure, the[~~ said~~] judge shall[~~ thereupon on proof of demand having been made,~~] issue a search warrant directed to any peace officer, ***animal control officer,*** or any officer or agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth ***who is employed by or has contracted with a city, county, urban-county, charter county, or consolidated local government to provide animal sheltering or animal control services*** or other peace officer to search the[~~ said~~] premises, and if upon ***the***[~~such~~] search it is found that an act of cruelty to animals is being perpetrated***,*** to ***immediately***[~~forthwith~~] arrest ***the***[~~such~~] offender or offenders and bring him or them before the said court for trial.

Section 30. KRS 436.610 is amended to read as follows:

All animals of the same species, which are on the property when an animal is caused to fight for pleasure or profit, in violation of the provisions of KRS 525.125 and 525.130***,*** shall be confiscated and turned over to the county ***animal control officer employed or contracted with as provided by***[~~dog warden appointed pursuant to~~] KRS 258.195, if there are reasonable grounds to believe that ***the***[~~such~~] animals were on the property for the purpose of fighting.

Section 31. The following KRS sections are repealed:

258.025 Secretary may exempt dogs from vaccination.

258.105 Enforcement by commissioner of agriculture -- Employment and powers of personnel.

258.115 Advisory committee.

258.125 Livestock fund created -- Expenditures -- Reversion of excess.

258.145 Licenses and tags -- Tattooing of dogs -- Tag to be affixed to collar -- Burden of proof of license.

258.155 License for part of year.

258.165 Kennel licenses and tags.

258.175 Dogs to be kept in kennel.

258.185 Records of dog and kennel licenses.

258.205 Dog temporarily in state need not be licensed -- Burden of proof.

258.275 Liability for property loss or injury by dog or coyote -- Procedures for enforcing claims for damages.

258.285 Payments from livestock fund -- Subrogation of claimant's rights.

258.295 Payment by dog owner bars payment from livestock fund -- Maximum sums for certain livestock and poultry -- Appraisal value.

258.305 Compensation of dog owner where licensed dog is killed.

258.325 Confinement and destruction of dog found to have caused loss or damage to livestock, persons, or poultry -- Harborer of unlicensed dog forfeits rights in livestock fund.

258.345 Quarantine of dogs in case of excessive damage to livestock, poultry, or domestic game birds -- Destruction of dogs in violation of quarantine.

258.355 Nonliability of state for losses, injuries or destruction of livestock, poultry or dogs except claims arising after June 30, 1954.

Section 32. Any funds remaining in the livestock fund sixty (60) days after the effective date of this Act shall be deposited in the animal control and care fund created by Section 13 of this Act.

The Committee Substitute to **HB 336** is as follows:

HB 336, AN ACT relating to animals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 258 IS CREATED TO READ AS FOLLOWS:

Gunshot shall not be used as a routine method of euthanasia in animal shelter settings. This prohibition shall not apply in animal shelter settings if an animal presents a threat to the health or safety of an animal control officer. The prohibition against gunshot shall also not apply to peace officers or animal control officers outside animal shelter situations if an animal:

(1) Cannot be seized;

(2) Presents a threat to the health or safety of the general public; or

(3) Has an injury or physical condition which causes the animal to suffer.

Section 2. KRS 258.005 is amended to read as follows:

As used in KRS 258.005 to ***258.087***[~~258.085 and subsections (1) and (2) of KRS 258.990~~], unless the context requires otherwise:

(1) "Dog" means any ***canine three (3) months of age or older for which there exists a United States Department of Agriculture approved rabies vaccine***[~~member of the canine family~~];

(2) "Owner[~~,~~]" ***means any person owning, keeping, or harboring a dog, cat, or ferret in Kentucky***[~~when applied to the proprietorship of a dog, includes every person having a right of property in the dog and every person who keeps or harbors the dog or has it in his care, or permits it to remain on or about premises owned or occupied by him~~];

(3) "Veterinarian" means a licensed practitioner of veterinary medicine;

(4) "Qualified person" means a person granted a permit by the secretary for health services to vaccinate ***his own dog***[~~animals~~] against rabies[~~ and may include owners or operators of licensed kennels~~];[~~ and~~]

(5) "Vaccination" means the ***administration***[~~injection~~] by a veterinarian or other qualified person of ***rabies*** vaccine approved by[~~,~~] and administered in accordance with ***administrative***[~~the~~] regulations ***promulgated by***[~~of~~] the secretary for health services***;***

(6) "Cat " means any feline three (3) months of age or older for which there exists a United States Department of Agriculture approved rabies vaccine;

(7) "Animal control officer" means an individual employed by, or an entity that has contracted with, a city, county, urban-

county, charter county, or consolidated local government who enforces the provisions of KRS 258.005 to 258.087 and local animal control ordinances;

(8) "Ferret" means any musteline three (3) months of age or older for which there exists a United States Department of Agriculture approved rabies vaccine; and

(9) "Quarantine" means the confinement of an animal for observation of clinical signs of illness indicating rabies infection, and the prevention of escape or contact with any person or other animal.

Section 3. KRS 258.015 is amended to read as follows:

(1) Every owner shall have his dog***, cat, or ferret*** initially vaccinated ***against rabies*** by the age of four (4) months and revaccinated~~[against rabies]~~ at the expiration of the immunization period as certified by the veterinarian. The veterinarian~~[or qualified person]~~ who vaccinates a dog***, cat, or ferret*** shall issue to the owner~~[thereof]~~ a vaccination certificate on a form ***approved***~~[prescribed and supplied]~~ by the Cabinet for Health Services. The vaccination certificate shall be prepared and issued in ***duplicate***~~[triplicate]~~, one (1) copy to be retained by the issuing veterinarian ***and***~~[or other qualified person,]~~ one (1) copy to be given to the owner of the dog***, cat, or ferret*** vaccinated~~[, and one (1) copy to be forwarded by the veterinarian or qualified person to the local health department, or, if none is maintained, to the Department for Public Health]~~. Each certificate shall bear the name and address of the veterinarian~~[or qualified person]~~ who issued it. The veterinarian~~[or qualified person]~~ shall also furnish each ***dog*** owner with a ***rabies***~~[metal]~~ tag bearing a serial number ***corresponding to the vaccination certificate with***~~[and after January 1, 1980,]~~ the year of~~[expiration of the]~~ immunization~~[period]~~. The tag~~[may bear the name of the veterinarian or qualified person issuing it. It shall be affixed by the owner to a collar or harness furnished by him and]~~ shall be ***affixed to a collar or harness furnished by the owner and shall be*** worn by the dog for which the ***tag***~~[certificate]~~ was issued. No one except the owner or his duly authorized agent shall remove the ***tag***~~[collar with the attached tag from the dog. Prior to their initial officially recorded vaccination against rabies, all dogs shall be confined to the premises of the owner]~~.

(2) Every qualified person who vaccinates his own dog shall comply with the vaccination certificate and tag requirement provisions of subsection (1) of this section.

(3) Every owner of a cat or ferret shall show proof of a valid rabies vaccination upon request of an animal control officer or peace officer.

Section 4. KRS 258.035 is amended to read as follows:

Any owner who has had his dog***, cat, or ferret*** vaccinated against rabies in another state by the proper authority~~[therein]~~ shall not be required to have ***the***~~[such]~~ dog***, cat, or ferret*** revaccinated when brought into this state provided the requirements of ***the***~~[such]~~ state under which the vaccination was made were of a standard not lower than those required in this state***,*** and provided further that ***the***~~[such]~~ dog wears a tag affixed to ***its***~~[his]~~ collar or harness bearing the ***year***~~[date]~~ of ***the***~~[such]~~ vaccination ***and the owner of the cat or ferret shows proof of a valid rabies vaccination***. One (1) year after the date of ***the***~~[such]~~ vaccination ***the***~~[such]~~ dog***, cat, or ferret shall***~~[must]~~ be revaccinated unless provided otherwise by ***administrative***~~[the rules and]~~ regulations ***promulgated by***~~[of]~~ the secretary for health services. The secretary for health services may ***promulgate administrative***~~[make rules and]~~ regulations governing the matter of reciprocity with other states.

Section 5. KRS 258.043 is amended to read as follows:

(1) ~~[Whenever a local board of health determines or is notified by the Cabinet for Health Services that the rabies immunization level among dogs is low in the county or any portion thereof, the]~~A local health department ***may***~~[shall]~~ sponsor mass ***rabies*** immunization clinics ***and***~~[at strategic locations and intervals throughout the area designated. The local health department]~~ shall contract with local veterinarians to administer the ***rabies*** vaccine. If the services of veterinarians are not available in the area, the local health department may contract with other veterinarians~~[or qualified persons designated by the Cabinet for Health Services]~~. A reasonable fee ***to be charged to the owner of each dog, cat, or ferret shall be determined by the local health department***, not to exceed five dollars ($5),~~[designated by the local board of health may be collected from each owner]~~ to help defray the cost of the clinic~~[program]~~.

(2)~~[Vaccination and licensing procedures may be jointly conducted at the clinics.~~

~~(3)]~~ No owner shall be required to have his dog***, cat, or ferret*** vaccinated at a public clinic if he elects to have his dog***, cat, or ferret*** vaccinated privately by a veterinarian of his choice.

(3) No owner shall be required to have his dog vaccinated at a public clinic if he is a qualified person and elects to vaccinate his dog himself.

Section 6. KRS 258.055 is amended to read as follows:

If~~[Whenever]~~ a local board of health has reason to believe or has been notified by the Cabinet for Health Services that there is danger that rabies may spread within the county~~[or any portion thereof]~~, the board shall publish a notice requiring owners of~~[dogs or other]~~ specified animals in the ***affected*** area ***of the county***~~[designated]~~ to confine the animals for ***any***~~[such]~~ periods ***that***~~[as]~~ may be necessary to prevent the spread of rabies. If it is deemed advisable in the interest of public health, the local board of health shall order all ***specified animals***~~[dogs]~~ in the ***affected*** area ***to be*** revaccinated against rabies, ***except animals that have been vaccinated within the past six (6) months under the provisions of KRS 258.005 to 258.087.***~~[and]~~ If the local board fails or neglects to ***order a revaccination***~~[do so]~~, the Cabinet for Health Services ***shall do so***~~[may order the revaccination of all dogs or other animals in the area except animals that have been previously vaccinated within the past six (6) months under the provisions~~

~~of KRS 258.005 to 258.085~~]. The Cabinet for Health Services may aid the local health department in the execution of ***any***[~~such~~] emergency vaccinations.

Section 7. KRS 258.065 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, every physician shall, within twelve (12) hours after his first professional attendance of a person bitten by a dog, cat, ***ferret,*** or other animal***,*** report to the local health department the name, age, sex,[~~ color,~~] and precise location of the person so bitten. If a child is bitten and no physician attends, the report shall be made by his parents or guardian. If an adult is bitten and no physician attends, he or the person caring for him shall make the report.

(2) If the local health department is closed when a physician, parent, guardian, or other adult attends to a bitten person, the physician, parent, guardian, or other adult shall report the incident on the next working day of the health department.

Section 8. KRS 258.075 is amended to read as follows:

The secretary for health services may administer the provisions of KRS 258.005 to ***258.087***[~~258.085 and subsections (1) and (2) of KRS 258.990~~] through the local health departments and may ***promulgate any administrative***[~~make such rules and~~] regulations and employ such personnel as are necessary to effectuate the purposes of KRS 258.005 to ***258.087***[~~258.085 and subsections (1) and (2) of KRS 258.990~~].

Section 9. KRS 258.085 is amended to read as follows:

(1) ***(a)*** A health officer or his agent shall have the authority to quarantine for a period not to exceed one hundred eighty (180) days any animal bitten by another animal known or suspected to have rabies, and to quarantine for a period not to exceed ten (10) days any ***dog, cat, or ferret***[~~animal~~] which has bitten a human being or which exhibits symptoms of rabies.[~~ An animal so quarantined may be confined by the health officer at a designated place at the owner's expense.~~]

(b) In lieu of the quarantines provided in paragraph (a) of this subsection, a health officer or his agent may order an animal to be destroyed and tested for rabies.

(c) If a wild or exotic animal bites a human being or exhibits symptoms of rabies, that animal shall be destroyed and tested for rabies.

(2) If an animal[~~Whenever a dog~~] dies with rabies***,***[~~ or~~] is suspected of having died with rabies***,*** or is destroyed because of having been suspected of being rabid, the owner***, if known***[~~ thereof~~], whether the ***animal***[~~dog~~] had been previously quarantined or not, shall[~~ at his own expense~~] send the head of ***the animal***[~~such dog~~] to a laboratory approved by the secretary for health services ***to be tested for rabies***[~~in the manner prescribed by the rules and regulations of the secretary for health services~~].

(3) ***(a) The owner of any animal quarantined or tested under this section shall be liable for any expenses incurred as a result of the quarantine or testing.***

(b) Any owner who destroys or disposes of an animal that has bitten a human being shall be liable for any rabies postexposure treatment if the animal is destroyed or disposed of in a manner that does not allow for rabies testing or quarantine.

Section 10. KRS 258.087 is amended to read as follows:

Any city***, county, urban-county, charter county, or consolidated local government***[~~ legislative body or fiscal court~~] may, by the adoption of an appropriate ordinance or resolution, provide for more stringent regulation of rabies control in dogs, cats, ***ferrets,*** and other animals than set forth in ***KRS 258.005 to 258.087***[~~this chapter~~].

Section 11. KRS 258.095 is amended to read as follows:

As used in KRS 258.095 to ***258.500***[~~258.365 and KRS 258.990(3) and (4)~~], unless the context requires otherwise:

(1) "Department" means the Department of Agriculture;

(2) "Commissioner" means the Commissioner of Agriculture;

(3) ***"Board" means the Animal Control Advisory Board created by Section 12 of this Act***[~~"Committee" means the advisory committee created by KRS 258.115~~];

(4) "Dog" means any ***domestic***[~~member of the~~] canine[~~ family~~], six (6) months of age or ***older***[~~over~~];

(5) "Owner," when applied to the proprietorship of a dog, includes every person having a right of property in the dog and every person who keeps or harbors the dog, or has it in his care, or permits it to remain on or about premises owned or occupied by him;

(6)[~~ "Livestock" includes horses, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids, swine, and confined and domesticated hares and rabbits;~~]

~~(7) "Poultry" includes all domesticated fowl and all game birds which are legally kept in captivity;~~

~~(8) "Kennel" means any establishment where dogs are kept for the purpose of breeding, sale, show or sporting purposes, and which is so constructed that dogs cannot stray therefrom;~~

~~(9) "Livestock fund" means the fund created by KRS 258.125 for the purpose of administering its provisions;~~

~~(10)~~] "Attack" means a dog's attempt to bite or successful bite of a human being. This definition shall not apply to a dog's attack of a person who has illegally entered or is trespassing on the dog owner's property in violation of KRS 511.060, 511.070, 511.080, or 511.090;

(7)[~~(11)~~] "Vicious dog" means any individual dog declared by a court to be a vicious dog;

(8)[~~(12)~~] "Animal control officer" means an individual employed by***, or an entity that has contracted with,*** a city, county, urban-county***,***[~~ government, or~~] charter county***,*** ***or consolidated local*** government who enforces the provisions of ***KRS 258.095 to 258.500***[~~this chapter~~] and local ***animal***[~~dog~~] control ordinances;[~~ and~~]

(9)[~~(13)~~] "Designated license facility" means any person, facility, or business designated by resolution of the ***governing body of the county***[~~fiscal court~~] to collect license fees under KRS 258.135***;***

(10) "Cat" means any domestic feline three (3) months of age or older;

(11) "Ferret" means any domestic musteline three (3) months of age or older;

(12) "Euthanasia" means the act of putting an animal to death in a humane manner by methods specified as acceptable for that species by the most recent report of the American Veterinary Medical Association Panel on Euthanasia, subject to the requirements provided by Section 1 of this Act;

(13) "Animal shelter" means any facility used to house or contain animals, operated or maintained by a governmental body, an incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization; and

(14) "Quarantine" means the confinement of an animal for observation of clinical signs of illness indicating rabies infection, and the prevention of escape or contact with any person or other animal.

Section 12. KRS 258.117 is amended to read as follows:

(1) The Animal Control Advisory Board is hereby created for the purposes of making recommendations to the commissioner relating to evaluating applications for and reviewing disbursements from the animal control and care fund,[~~ establishing shelter standards,~~] creating training programs, and other duties relating to animal control and care in the counties of the Commonwealth.

(2) The advisory board shall be attached to the Kentucky Department of Agriculture for administrative purposes.

(3) The advisory board shall be composed of the following members appointed by the Governor as specified:

(a) Two (2) members selected from a list of three (3) submitted by the Kentucky Animal Control Association;

(b) Two (2) members selected from a list of three (3) submitted by the Kentucky Veterinary Medical Association;

(c) Two (2) members selected from a list of three (3) submitted by the Kentucky Farm Bureau;

(d) Two (2) members selected from a list of three (3) submitted by the Kentucky Association of Counties;

(e) Two (2) members selected from a list of three (3) submitted by the Kentucky Houndsmen Association; and

(f) Two (2) members selected from a list of three (3) submitted by the Kentucky League of Cities.

(4) Appointed members shall serve for a term of four (4) years. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term.

(5) Members of the advisory board shall receive one hundred dollars ($100) per day for attendance at meetings and shall be entitled to reimbursement for expenses incurred for travel. No per diem or travel expenses shall be paid except for meetings of the full advisory board.

(6) The advisory board shall elect one (1) of its members to serve as chair for a term of two (2) years.

(7) The advisory board shall meet quarterly ***or upon the call of the chair***.

(8) The commissioner shall carry out the recommendations of the advisory board.

Section 13. KRS 258.119 is amended to read as follows:

(1) The "Animal Control and Care Fund" is hereby created as a special fund in the State Treasury. The fund may also receive gifts, grants from public and private sources, state appropriations, and federal funds. Any unalloted or unencumbered balances in this fund shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be credited to the fund. Any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year, and moneys in this fund shall be continuously appropriated only for the purposes specified in this section.

(2) Moneys from the fund shall be used by the Animal Control Advisory Board for board expenses, for the creation and support of statewide programs related to animal control and care, and for training[~~ dog wardens and~~] animal control officers. "Statewide programs" includes, but is not limited to, the reimbursement of costs for preexposure rabies vaccinations for all animal control and care workers. When determining the distribution of the moneys relating to training, the need of the applicant shall be one (1) of the criteria considered by the board. Based on recommendations of the Animal Control Advisory Board, any moneys not expended under this subsection may be distributed annually as grants to counties with an established animal control and care program meeting the requirements of subsection (3) of this section or approved

plan to establish an animal control and care program under subsection (4) of this section.

(3) As used in this section, "animal control and care program" means a program in which the county:

(a) Employs ***or contracts with***[~~a dog warden or~~] an animal control officer as required by KRS 258.195, who is a high school graduate and has completed the training requirements set forth by the Animal Control Advisory Board; and

(b) Maintains ***an***[~~a dog pound or~~] animal shelter, ***enters into an intergovernmental agreement for the establishment of a regional animal shelter,*** or contracts with an ***entity authorized to maintain sheltering and animal control services***[~~adjoining county~~], to provide services that:

1. Segregate male and female animals ***by species*** in runs and holding areas;

2. Provide separate runs or holding areas for ill or injured animals***. An ill or injured animal shall be treated with proper veterinary care or euthanized***;

3. Provide quarantine for dogs and cats presented to the shelter when quarantine by the owner is not feasible or desirable, the cost of quarantine to be borne by the animal owner at the shelter's regular housing costs and fees. Quarantined dogs and cats shall be held in isolation for observation of symptoms of rabies for a period of ten (10) days from the date the dog or cat bit[~~ or scratched~~] a person. If the dog or cat dies or is euthanized while in quarantine, it shall be submitted to the local health department for testing for the presence of the rabies virus. The cost of the testing shall be borne by the animal owner or the local health department may bear the cost at its discretion;

4. Provide holding areas with protection from the weather, including heated quarters during cold weather***. Holding areas shall be free of debris or standing water, shall provide adequate lighting, ventilation, and sanitary conditions to promote a safe, healthy environment, and shall provide adequate space to allow for normal movement, including standing to full height, sitting, turning, and lying down in a natural position without coming in contact with the top or sides of the enclosure or another animal***;

5. Provide runs and cages built of materials which can be readily cleaned and disinfected, including floors made of an impervious material[~~ or a minimum of three (3) inches of gravel~~];

6. Provide access to the public for no less than twenty-four (24) hours in one (1) week, with the hours that the facility is open to the public posted in a visible location;

7. Employ euthanasia methods ***specified as acceptable for that species***[~~recommended~~] by the ***most recent report of the*** American Veterinary Medical Association ***Panel on Euthanasia***;[~~ and~~]

8. Provide ***potable, uncontaminated water to every animal at all times, and palatable, uncontaminated food daily; and***

9. Maintain a record on each animal impounded. Records shall be maintained for a period of two (2) years and shall include:

a. Date impounded;

b. Location found or picked up;

c. Sex of animal and spay or neuter status, if known;

d. Breed or description, and color; and

e. Date reclaimed, adopted, or euthanized[~~other minimum standards as developed by the Animal Control Advisory Board and approved by the commissioner~~].

(4) Counties submitting plans proposing to establish an animal control and care program for approval by the Animal Control Advisory Board shall comply with the requirements of:

(a) Paragraph (a) of subsection (3) of this section within twelve (12) months of the date the documentation is submitted; and

(b) Paragraph (b) of subsection (3) of this section within twenty-four (24) months of the date the documentation is submitted.

(5) To be eligible for any moneys distributed as grants to counties under subsection (2) of this section, counties shall submit an application to the commissioner, on a form prescribed by the Department of Agriculture, by July 15 of each year. Moneys shall be used for construction, equipment, educational supplies, and other uses or programs approved by the advisory board, but shall not be used to increase wages of ***animal control officers***[~~dog wardens~~] or other personnel. Counties receiving money from the Department of Agriculture shall comply with the terms of the plan or program. If the terms of the plan or program are not complied with, the county shall refund the money to the Department of Agriculture.

[~~(6) The commissioner shall promulgate administrative regulations that relate to the animal control and care fund provisions of this section.~~]

Section 14. KRS 258.135 is amended to read as follows:

(1) ***The governing body of each county may establish an animal licensing program by ordinance. It shall be the responsibility of each county to administer and enforce its licensing program***[~~On or before July 1, 1954, and on or~~

~~before July 1 of each year thereafter, the owner of any dog six (6) months old or over shall apply to the dog warden or designated license facility of the county in which he resides for a license for each dog owned or kept by him. The application shall be accompanied by a license fee of one dollar and fifty cents ($1.50) for each dog, except as provided in KRS 258.500. Any license issued for the year of 1954 before July 1, 1954, shall be effective until July 1, 1955. Dog wardens and designated license facilities shall be agents of the Commonwealth in the collection of the license fees, unless the department determines, with the approval of the Governor, to issue all licenses either directly or through other agents. For services rendered in collecting and paying over the fee, dog wardens or designated license facilities shall be allowed to retain the sum of twenty five cents ($0.25) for each license. The balance of the license fee collected shall be paid to the department quarterly and shall be credited to the livestock fund. If the committee finds it to be in the interest of maximum enforcement of this chapter to permit certain other portions of the license fee to be retained by the respective counties for use in enforcement, the department may allow these portions of the license fee to be so retained by the counties~~].

(2) ***In addition to the licensing program provided in subsection (1) of this section,*** any ***city***[~~county~~] may ***establish an animal licensing program by ordinance. It shall be the responsibility of the city to administer and enforce its licensing program***[~~choose to issue additional licenses in conjunction with effective dates of a valid rabies vaccination, provided the dog shall be licensed each fiscal year~~].

Section 15. KRS 258.195 is amended to read as follows:

(1) ***The governing body***[~~On or before July 1, 1954, the fiscal court~~] of each county shall employ ***or contract with an animal control officer and***[~~a dog warden. On or before July 1, 1955, the fiscal court of each county~~] shall establish and maintain ***an animal shelter***[~~a dog pound~~] as a means of facilitating and ***administering KRS 258.095 to 258.500. One (1) or more counties may enter into intergovernmental agreements for the establishment of regional animal shelters, or may contract with entities authorized to maintain sheltering and animal control services. Animal shelters shall meet the standards provided by subsection (3)(b) of Section 13 of this Act within two (2) years after the effective date of this Act. Governing bodies may adopt additional standards and ordinances related to public health, safety, enforcement, and the efficient and appropriate operation of their shelters and their animal control programs***[~~administration of this chapter. In counties of small population, arrangements may be made for the joint establishment and operation of dog pounds by two (2) or more counties on a mutually satisfactory basis. Instead of setting up pounds, one (1) or more counties acting jointly may take advantage of the facilities of suitable pounds already in operation by counties, cities, humane societies, or other organizations or individuals. Fiscal courts may adopt and enforce regulations relative to pound standards, the naming of persons who shall serve as dog wardens, providing for the fixing of salaries of wardens and assistants, and such other matters that may be incidental to efficient and proper operation of the dog pound plan~~].

(2)[~~As a means of providing a portion of the funds for setting up and operating dog pounds, fifty cents ($0.50) out of the one dollar and fifty cents ($1.50) paid for every dog license sold in each county shall be credited by the department to a special enforcement fund to be refunded to the respective counties on a pro rata basis determined by the licenses sold in each county, and shall be used in meeting expenses of the dog warden and the dog pound plan.~~

~~(3) Dog wardens may be designated as agents of the department for purposes of appraising livestock losses pursuant to KRS 258.275.~~

~~(4)~~] Cities[~~, counties, urban county governments, or charter county governments~~] may employ ***or contract with*** animal control officers for the enforcement of this chapter and local ***animal***[~~dog~~] control ordinances within their corporate limits. Cities[~~, urban-county governments, or charter county governments~~] may enter into agreements with the counties for the enforcement of the county's ***animal control*** ordinances. The agreement shall include, but shall not necessarily be limited to, setting out the jurisdiction and the duties of the ***animal control*** officer[~~ or warden~~] respective to the agreement.

(3)[~~(5)~~] [~~Dog wardens and ~~]Animal control officers shall have the authority to issue [~~uniform ~~]citations only for the enforcement of the provisions of this chapter ***and animal***[~~or dog~~] control ordinances in their respective jurisdictions.

Section 16. KRS 258.215 is amended to read as follows:

(1) Peace officers[~~, dog wardens,~~] or animal control officers shall seize and impound any dog which does not bear a ***valid rabies***[~~proper license~~] tag or other legible identification which is found running at large[~~, but if an officer, dog warden, or animal control officer, after diligent effort to do so, should fail to seize the dog, it shall then become his duty to destroy the dog by any reasonable and humane means~~]. Any dog which an officer[~~, dog warden,~~] or animal control officer seizes shall be impounded ***in the designated animal shelter of the county and confined in a humane manner. If, after a reasonable effort, the seizure of an unrestrained dog cannot be made, or the dog presents a hazard to public safety or property or has an injury or physical condition which causes the dog to suffer, the animal control officer or peace officer may immediately destroy the dog by the most reasonable and humane means then available.***

(2) (a) Impounded dogs shall be kept for ***not less than***[~~a period of~~] five (5)[~~ or seven (7)~~] days, ***unless reclaimed by their owners. Dogs not reclaimed and those not placed in suitable new homes may be humanely euthanized after the five (5) day holding period, unless the dog has an injury or physical condition which causes it to suffer. In those cases the animal shelter may immediately euthanize the dog, and if a human being has been bitten by the dog, the dog shall be tested for rabies.***

(b) If an owner is identified, the impounding agency shall immediately notify the owner of the impoundment by the most expedient means available[~~to be determined by the local animal shelter. If the dog is not claimed by the~~

~~owner or sold in accordance with other provisions of this chapter, then the dog may be destroyed in some humane manner~~].

(c) Any animal shelter, public or private, which takes in stray ***animals***[~~dogs~~] and does not have regular hours for public access, shall post semimonthly either in a local newspaper or the newspaper with the highest circulation in the county, the shelter location, hours of operation, the period that impounded ***animals***[~~dogs~~] shall be held, and a contact number.

(3) Upon reclaiming an impounded dog, cat, or ferret, the owner shall show proof of a valid rabies vaccination. If proof of the vaccination cannot be provided, the owner shall purchase a vaccination voucher from the animal shelter. The voucher shall be valid for ten (10) days from the date of issuance and shall be used in the prescribed time period. The animal shelter shall reimburse the veterinarian for the amount of the voucher upon presentation to the shelter by the administering veterinarian.

(4) The owner of an impounded dog, cat, or ferret is responsible for all fees associated with the impoundment of the dog, cat, or ferret. If the owner can be identified, the fees are due even if the owner does not reclaim the dog, cat, or ferret.

(5) Dogs, cats, or ferrets which have bitten a person shall be maintained in quarantine by the owner for ten (10) days from the date of the bite. Owners who fail to properly quarantine their animals shall be subject to a citation for violation of this subsection and the dog, cat, or ferret shall be removed to the animal shelter for the remainder of the quarantine period. The owner shall be responsible for all associated fees of the quarantine and impoundment.

(6)[~~(2)~~] A hound or other hunting dog which has been released from confinement for hunting purposes shall be deemed to be under reasonable control of its owner or handler while engaged in or returning from hunting, and, if a hunting dog becomes temporarily lost from a pack or wanders from actual control or sight of its owner or handler, the owner or handler shall not be deemed to be in violation of the provisions of this section as a result of the dog's having become temporarily lost or having wandered from immediate control or sight of the owner or handler.

Section 17. KRS 258.225 is amended to read as follows:

(1) It shall be unlawful for any peace officer[~~, dog warden,~~] or animal control officer to refuse to perform his duties under the provisions of this chapter[~~, or to refuse to assist in the enforcement of this chapter upon request of the Commissioner~~].

(2) It shall be unlawful for any person to interfere with any ***peace*** officer,[~~ dog warden, or~~] animal control officer, or agent in the enforcement of this chapter.

Section 18. KRS 258.235 is amended to read as follows:

(1) Any person***, without liability,*** may kill or seize any dog which ***is observed attacking any person*** [~~he sees in the act of pursuing or wounding any livestock, or wounding or killing poultry, or attacking human beings, whether or not such dog bears the license tag required by the provisions of this chapter. There shall be no liability on such person in damages or otherwise for killing, injuring from an attempt to kill, or for seizing the dog~~].

(2) Any ***livestock owner or his agent, without liability, may kill any dog trespassing on that owner's property and observed in the act of pursuing or wounding his livestock***[~~unlicensed dog, not accompanied by its owner or keeper, that enters any field or inclosure where livestock or poultry are confined shall constitute a private nuisance and the owner or tenant of such field or inclosure, or his agent or servant, may kill or seize such dog while it is in the field or inclosure, without liability or responsibility of any nature for killing, injuring from an attempt to kill, or for seizing the dog~~].

(3) Any dog ***determined to be vicious by a court and allowed to be returned to an owner shall be confined in a locked enclosure at least seven (7) feet high or a locked kennel run with a secured top. The dog may leave the enclosure only to visit the veterinarian or to be turned in to an animal shelter. The dog shall be muzzled if leaving the enclosure for either of these purposes***[~~deemed in violation of this section and seized by a property owner or his agent shall be surrendered over to the dog warden, animal control officer, or a peace officer for impoundment as stipulated in KRS 258.215~~].

(4) ***Any owner whose dog is found to have caused damage to a person, livestock, or other property shall be responsible for that damage***[~~Subsection (2) of this section shall not apply to licensed dogs, when accompanied by their owner or handler, unless caught in the act of wounding or killing any livestock, or wounding or killing poultry, or attacking human beings~~].

(5) (a) Any person who has been attacked by a dog, or anyone ***acting on behalf of that***[~~for such~~] person, may make a complaint before the district court, charging the owner or keeper of ***the***[~~such~~] dog with harboring a vicious dog. A copy of ***the***[~~such~~] complaint shall be served upon the person so charged in the same manner and subject to the laws regulating the service of summons in civil actions directing him to appear for a hearing of ***the***[~~such~~] complaint at a time fixed ***in the complaint***[~~therein~~]. If ***the***[~~such~~] person fails to appear at the time fixed, or if upon a hearing of the parties and their witnesses, the court finds the person so charged is the owner or keeper of the dog in question, and that the dog has viciously and without cause, attacked a human being when off the premises of the owner or keeper, the person shall be subject to the penalties set forth in KRS 258.990(3)(b), and the court shall further order the owner or keeper to[~~ henceforth~~] keep the dog securely confined ***as provided by subsection (3) of this section***[~~by chain leash or enclosed pen of sufficient strength to securely restrain the dog from being a public threat~~], or the court may order the dog to be destroyed.

(b) The[~~ dog warden or duly appointed~~] animal control officer shall act as an officer of the court for the enforcement of any orders of the court in ***his***[~~their~~] jurisdiction pertaining to this subsection.

(6) For his services in ***the***[~~such~~] proceedings, ***a***[~~the~~] peace officer shall be entitled to the same fees to which he is entitled for performing similar services in civil cases. In all proceedings under this section, ***the***[~~such~~] court shall place the costs upon either party as ***it***[~~he~~] may determine.

(7) It shall be unlawful for the owner or keeper of any vicious dog***,*** after receiving an order under subsection (5) of this section, to permit ***the***[~~such~~] dog to run at large, or to appear ***in public except as provided in subsection (3) of this section***[~~on the public highways unless in leash~~]. Any ***vicious***[~~such~~] dog found running at large may be killed by any[~~ dog warden,~~] animal control officer[~~,~~] or peace officer without liability for damages for ***the killing***[~~such killings~~].

Section 19. KRS 258.245 is amended to read as follows:

All ***dogs that have a valid rabies vaccination and bear identification***[~~licensed dogs~~] are hereby declared to be personal property and subjects of larceny. Except as provided in KRS 258.235, it shall be unlawful for any person[~~,~~] except a peace officer[~~, dog warden,~~] or animal control officer to destroy, or attempt to destroy, any dog ***that***[~~which~~] bears ***identification***[~~a license tag for the current year~~].

Section 20. KRS 258.255 is amended to read as follows:

Every female dog in heat shall be confined in a building or secure enclosure in such a manner that the female dog cannot come in contact with a male dog except for a planned breeding[~~It shall be unlawful for the owner or keeper of any female dog to permit her to go beyond the premises of such owner or keeper at any time she is in heat, unless she is properly in leash~~].

Section 21. KRS 258.265 is amended to read as follows:

(1) ***An owner shall exercise proper care and control of his dog to prevent the dog from violating any local government nuisance ordinance***[~~The owner or keeper of every dog shall at all times between the hours of sunset and sunrise of each day keep such dog:~~

~~(a) Confined within an inclosure from which it cannot escape; or~~

~~(b) Firmly secured by means of a collar and chain or other device so that it cannot stray beyond the premises on which it is secured; or~~

~~(c) Under the reasonable control of some person or, when engaged in lawful hunting accompanied by an owner or handler. A hound or other hunting dog which has been released from confinement for hunting purposes shall be deemed to be under reasonable control of its owner or handler while engaged in or returning from hunting, and, if such a hunting dog becomes temporarily lost from a pack or wanders from actual control or sight of its owner or handler, such owner or handler shall not be deemed to be in violation of the provisions of this section as a result of such dog's having become temporarily lost or having wandered from immediate control or sight of the owner or handler~~].

(2) Any peace officer[~~, dog warden,~~] or animal control officer may seize or destroy any dog found running at large between the hours of sunset and sunrise and unaccompanied and not under the control of ***its*** owner or handler. [~~However, ~~]A peace officer[~~, dog warden,~~] or animal control officer shall be under a duty to make a fair and reasonable effort to determine whether any dog found at large between sunset and sunrise is a hound or other hunting dog which has become lost temporarily from a pack or wandered from immediate control of its owner, or handler, and if he is reasonably sure that the dog is a hunting dog, then he shall not destroy the dog, unless it is found in the act of pursuing or wounding livestock, or wounding or killing poultry, or attacking human beings.

(3) A hound or hunting dog may be unrestrained when engaged in lawful hunting activities while on private or public property designated or authorized for that purpose.

Section 22. KRS 258.365 is amended to read as follows:

Nothing in this chapter shall be construed to prohibit or limit the right of any ***governing body***[~~city~~] to pass or enforce any ordinance with respect to the regulation of dogs ***or other animals***, the provisions of which are not inconsistent with the provisions of this chapter. Nothing in this chapter shall be construed to repeal any of the provisions of the fish and game laws of the Commonwealth of Kentucky now in effect, nor any laws relating to the powers and duties of the secretary for health services, or any health officer relating to ***rabid animals or animals***[~~mad dogs or dogs~~] affected with any disease, or to prohibit the destroying of ***any animal***[~~licensed or unlicensed dogs~~] in accordance with the provisions of any quarantine regulations, made in accordance with the provisions of any local or state health law.

Section 23. KRS 258.500 is amended to read as follows:

(1) As used in subsections (1) to (11) of this section, "person" means a "person with a disability" as defined by KRS 210.770. "Person" also includes a trainer of an assistance dog.

(2) If a person is accompanied by an assistance dog, neither the person nor the dog shall be denied admittance to any hotel, motel, restaurant, or eating establishment, nor shall the person be denied full and equal accommodations, facilities, and privileges of all public places of amusement, theater, or resort when accompanied by an assistance dog.

(3) Any person accompanied by an assistance dog shall be entitled to full and equal accommodations on all public transportation, if the dog does not occupy a seat in any public conveyance, nor endanger the public safety.

(4) No person shall be required to pay additional charges or fare for the transportation of any accompanying assistance dog.

(5) No person accompanied by an assistance dog shall be denied admittance and use of any public building, nor denied the use of any elevator operated for public use.

(6) Any person accompanied by an assistance dog may keep the dog in his immediate custody while a tenant in any apartment, or building used as a public lodging.

(7) The provisions of this section shall not apply unless the assistance dog has been trained or is being trained by a recognized training agency or school, and is properly harnessed.

(8) (a) Except as provided in paragraph (b) of this subsection, all persons accompanied by an assistance dog shall have in their personal possession a certificate issued by the assistance dog training agency or school establishing that their dogs have been so trained.

(b) All trainers accompanied by an assistance dog shall have in their personal possession identification verifying that they are trainers of assistance dogs.

(9) The provisions of this section shall not apply unless the person complies with the legal limitations applicable to nondisabled persons and unless all requirements of KRS 258.015 ***and***[~~,~~] 258.135[~~ and 258.145~~] have been complied with.

(10) Assistance dogs are exempt from all state and local licensing fees.

(11) Licensing authorities shall accept that the dog for which the license is sought is an assistance dog when a copy of the certificate, as required under subsection (8) of this section, is attached to the licensing form.

(12) No person shall willfully or maliciously interfere with an assistance dog or the dog's user.

Section 24. KRS 258.990 is amended to read as follows:

(1) Any person who violates KRS 258.015, 258.035, 258.055, 258.065***,*** or 258.085[~~,~~] shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). Each day of violation shall constitute a separate offense.

(2) The owner of any dog***, cat, or ferret which bites a human being***[~~not vaccinated according to the provisions of this chapter~~] shall be liable to pay all damages for personal injuries resulting from the bite of ***the***[~~such~~] dog, ***cat, or ferret***[~~if rabid~~].

(3) (a) Any person violating or failing or refusing to comply with KRS 258.095 to 258.365[~~ and subsections (3) and (4) of this section~~], except KRS 258.235(5)(a), shall, upon conviction, be fined not less than five dollars ($5) ***nor***[~~and not~~] more than one hundred dollars ($100)***,*** or be imprisoned ***in the county jail*** for not less than five (5) nor more than sixty (60) days***,*** or both[~~ so fined and imprisoned~~].

(b) Any person violating KRS 258.235(5)(a) shall be punished by a fine of not less than fifty dollars ($50) nor more than two hundred dollars ($200), or by imprisonment in the county jail for not less than ten (10) nor more than sixty (60) days, or[~~ by~~] both[~~ fine and imprisonment~~].

[~~(4) All fines collected under subsection (3) of this section shall after costs and commissions have been deducted, be paid to the department to be credited to the livestock fund.~~]

Section 25. KRS 67.592 is amended to read as follows:

(1) The county judge/executive shall designate the sheriff of the county, or, if there is a county police department, may designate the chief of the county police, as custodian of all property:

(a) Alleged to be or suspected of being the proceeds of crime;[~~ or~~]

(b) Alleged to be or suspected of having been used to facilitate the commission of a crime;[~~ or~~]

(c) Which is subject to confiscation or forfeiture, excluding property subject to forfeiture pursuant to KRS Chapter 218A, or both, under any provision of the Kentucky Revised Statutes;[~~ or~~]

(d) Which is taken from the person of a prisoner, except for ***any***[~~such~~] personal property ***that***[~~as~~] may be in the custody of a prisoner upon his admission to jail, in which case all property which he is not permitted to retain upon admission to jail shall be placed in the custody of the jailer;[~~ or~~]

(e) Which is lost or abandoned and taken into custody by any peace officer, or the courts; or

(f) Which is taken from persons supposed to be insane, intoxicated, or otherwise incapable of taking care of themselves.

(2) Any peace officer, except for the Kentucky State Police, or court having custody of the property shall, as soon as practicable, deliver it into the custody of the property clerk.

(3) The sheriff or chief of county police designated as custodian of property shall appoint from persons on his staff, or may employ, a person to serve as property clerk and other persons necessary as deputy property clerks.

(4) All the property shall be particularly described and registered by the property clerk, or his deputy, in a book kept for that purpose, containing the name of the owner, if ascertained, the place where found, the name of the person from whom it was taken, with the general circumstances of its receipt, the name of the officer recovering the property, the names of all claimants ***to the property***[~~thereto~~], and any final disposition of the property. The property clerk shall advertise the

property, if it is not the subject of a forfeiture proceeding, as to the amount and disposition of the property.

(5) The fiscal court of the county may prescribe regulations in regard to the duties of the property clerk and his deputies, and require security for the faithful performance of the duties imposed by this section.

(6) All animals stolen, strayed, lost, or confiscated that come into the possession of the property clerk shall be sent to ***an animal shelter***[~~a public pound~~] located within the county, if there is one, or if there is none to ***an animal shelter***[~~a public pound~~] in another county.

(7) No property shall be delivered to the property clerk or his deputy except as provided in this section.

(8) No property shall be disposed of by the property clerk or his deputy except in the manner prescribed by law.

(9) The provisions of this section shall apply in all unincorporated areas of a county and in all cities which do not appoint a property custodian pursuant to KRS 95.845.

Section 26. KRS 212.625 is amended to read as follows:

Each city-county board of health created by KRS 212.350 shall establish, maintain, and operate ***an animal shelter***[~~a public pound~~] for animals in which, except as otherwise provided by law, shall be impounded all stray, vicious, or diseased animals taken up or collected in ***the***[~~such~~] county, whether in incorporated or unincorporated areas, by any public officer or authority or by any other person. Each[~~ such~~] board shall, throughout the county, including all municipalities ***within the county***[~~therein~~], enforce all statutes, ordinances of cities, orders or resolutions of the fiscal court of the county, and regulations of ***the***[~~such~~] board or any other governmental body or agency authorized to ***promulgate***[~~adopt such~~] regulations, relating to the taking up, collection, and impounding of stray, vicious, or diseased animals. Each[~~ such~~] board may promulgate and enforce reasonable and necessary[~~ rules and~~] regulations providing for the collection and impounding of[~~ such~~] animals and governing the use and operation of ***animal shelters***[~~such public pounds~~].

Section 27. KRS 257.100 is amended to read as follows:

(1) Any peace officer***, animal control officer,*** or any officer of the accredited Humane Society or Society for the Prevention of Cruelty to Animals may destroy or kill or cause to be destroyed or killed, any animal found abandoned and suffering and not properly cared for, or appearing to be injured, diseased, or suffering past recovery for any useful purpose.

(2) Before destroying the animal the officer shall obtain the judgment to that effect of a veterinarian, or of two (2) reputable citizens called by him to view the animal in his presence, or shall obtain consent to the destruction from the owner of the animal.

(3) (a) Any animal placed in the custody of a licensed veterinarian for treatment, boarding, or other care, which shall be unclaimed by its owner or his agent for a period of more than ten (10) days after written notice by certified mail, return receipt requested, is given the owner or his agent at his last known address, shall be deemed to be abandoned and may be turned over to the nearest humane society[~~, dog pound~~] or animal shelter or disposed of as ***the***[~~such~~] custodian may deem proper.

(b) The giving of notice to the owner, or the agent of the owner of ***the***[~~such~~] animal by the licensed veterinarian[~~, as provided herein~~] shall relieve the licensed veterinarian and any custodian to whom ***the***[~~such~~] animal may be given of any further liability for disposal.

(4) For the purpose of this section, the term "abandon" ***means***[~~shall mean~~] to forsake entirely, or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner, or his agent.[~~ Such~~] Abandonment shall constitute the relinquishment of all rights and claims by the owner to ***the***[~~such~~] animal.

Section 28. KRS 321.181 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the Kentucky Board of Veterinary Examiners;

(2) "Animal" means any animal, except human beings;

(3) "Compensation" includes any gift, bonus, fee, money, credit, or other thing of value;

(4) "Veterinarian" means a practitioner of veterinary medicine who is duly licensed in the Commonwealth of Kentucky;

(5) "Practice of veterinary medicine" means:

(a) To diagnose, treat, correct, change, relieve, or prevent: animal disease, deformity, defect, injury, or other physical or mental conditions, including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique, and the use of any manual or mechanical procedure for testing for pregnancy, or for correcting sterility or infertility, or to render advice or recommendation with regard to any of the above;

(b) To engage in veterinary surgery, obstetrics, embryo transfer, dentistry, acupuncture, manipulation, and all other branches or specialties of veterinary medicine and the prescribing, administering, or dispensing of drugs and medications for veterinary purposes, in accordance with the applicable federal statutes and regulations governing controlled prescription and legend drugs; and

(c) To use any title, words, abbreviation, or letters in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in paragraphs (a) and (b) of this subsection;

(6) "Embryo transfer" means to remove any embryo from any animal for the purpose of transplanting the embryo into another female animal or for the purpose of cryopreserving the embryo, or to implant the embryo into any animal, including food and companion animals;

(7) "Chemical restraint" means the use of any prescription or legend drug that restrains or tranquilizes the animal;

(8) "Direct supervision" means the veterinarian is on the premises, and is quickly and easily available, and the animal has been examined by a veterinarian at the times acceptable veterinary medical practice requires, consistent with the particular delegated animal health care tasks;

(9) "Indirect supervision" means the veterinarian does not have to be on the premises as long as a valid veterinary/client/patient relationship has been established and the veterinary technologist, veterinary technician, or veterinary assistant has been instructed on the applicable animal health care tasks in accordance with KRS 321.441 and 321.443;

(10) "Emergency" means the animal has been placed in a life threatening condition and immediate treatment is necessary to sustain life;

(11) "Impaired veterinarian program" means the Kentucky Veterinary Medical Association sponsored program for the identification, intervention, and monitoring of veterinarians impaired as a result of alcoholism, chemical dependence, or drug abuse;

(12) "Veterinary medical impairment committee" means a committee of the Kentucky Veterinary Medical Association, comprised of individuals who have expertise in the areas of alcoholism, chemical dependence, drug abuse, or physical or mental illness, that has been designated by the Kentucky Veterinary Medical Association to perform activities related to the impaired veterinarian program;

(13) "Veterinary technologist" means a person who has successfully completed an accredited program of veterinary technology approved by the board and who is registered in accordance with KRS 321.441;

(14) "Veterinary technician" means a person who has an associate degree related to veterinary sciences, or its equivalent as approved by the board, and who is registered in accordance with KRS 321.441;

(15) "Veterinary assistant" means a lay person employed by a licensed veterinarian in accordance with KRS 321.443;

(16) "Certified animal control agency" means a county or municipal animal shelter[~~, dog pound,~~] or animal control agency; private humane society; state, county, or municipal law enforcement agency; or any combination ***of those entities***[~~thereof~~] that temporarily houses stray, unwanted, or injured animals and that is certified under the provisions of KRS 321.207; and

(17) "Certified animal euthanasia specialist" means a person employed by a certified animal control agency who is authorized by the board, under KRS 321.207, to humanely euthanize animals by administering drugs designated by the board for euthanasia.

Section 29. KRS 436.605 is amended to read as follows:

(1) ***Animal control officers***[~~Dog wardens~~] and officers and agents of humane societies ***who are employed by or have contracted with a city, county, urban-county, charter county, or consolidated local government to provide animal sheltering or animal control services*** shall have the powers of peace officers for the purpose of enforcing the provisions of the Kentucky Revised Statutes relating to cruelty and mistreatment of animals, provided they possess the qualifications required under KRS 61.300.

(2) ***When*** any peace officer, ***animal control officer,*** or any officer or agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth ***who is employed by or has contracted with a city, county, urban-county, charter county, or consolidated local government to provide animal sheltering or animal control services makes an***[~~, who shall make~~] oath before any judge of a District Court that he has reasons to believe or does believe that an act of cruelty to animals is being committed in a building, barn***,*** or other enclosure, the[~~ said~~] judge shall[~~ thereupon on proof of demand having been made,~~] issue a search warrant directed to any peace officer, ***animal control officer,*** or any officer or agent of any society or association for the prevention of cruelty to animals duly incorporated under the laws of this Commonwealth ***who is employed by or has contracted with a city, county, urban-county, charter county, or consolidated local government to provide animal sheltering or animal control services*** or other peace officer to search the[~~ said~~] premises, and if upon ***the***[~~such~~] search it is found that an act of cruelty to animals is being perpetrated***,*** to ***immediately***[~~forthwith~~] arrest ***the***[~~such~~] offender or offenders and bring him or them before the said court for trial.

Section 30. KRS 436.610 is amended to read as follows:

All animals of the same species, which are on the property when an animal is caused to fight for pleasure or profit, in violation of the provisions of KRS 525.125 and 525.130***,*** shall be confiscated and turned over to the county ***animal control officer employed or contracted with as provided by***[~~dog warden appointed pursuant to~~] KRS 258.195, if there are reasonable grounds to believe that ***the***[~~such~~] animals were on the property for the purpose of fighting.

Section 31. The following KRS sections are repealed:

258.025 Secretary may exempt dogs from vaccination.

258.105 Enforcement by commissioner of agriculture -- Employment and powers of personnel.
258.115 Advisory committee.
258.125 Livestock fund created -- Expenditures -- Reversion of excess.
258.145 Licenses and tags -- Tattooing of dogs -- Tag to be affixed to collar -- Burden of proof of license.
258.155 License for part of year.
258.165 Kennel licenses and tags.
258.175 Dogs to be kept in kennel.
258.185 Records of dog and kennel licenses.
258.205 Dog temporarily in state need not be licensed -- Burden of proof.
258.275 Liability for property loss or injury by dog or coyote -- Procedures for enforcing claims for damages.
258.285 Payments from livestock fund -- Subrogation of claimant's rights.
258.295 Payment by dog owner bars payment from livestock fund -- Maximum sums for certain livestock and poultry -- Appraisal value.
258.305 Compensation of dog owner where licensed dog is killed.
258.325 Confinement and destruction of dog found to have caused loss or damage to livestock, persons, or poultry -- Harborer of unlicensed dog forfeits rights in livestock fund.
258.345 Quarantine of dogs in case of excessive damage to livestock, poultry, or domestic game birds -- Destruction of dogs in violation of quarantine.
258.355 Nonliability of state for losses, injuries or destruction of livestock, poultry or dogs except claims arising after June 30, 1954.

Section 32. Any funds remaining in the livestock fund sixty (60) days after the effective date of this Act shall be deposited in the animal control and care fund created by Section 13 of this Act.

Calendar

HB 435, 436, 454, 460, 296, HJR 143, 150, HB 483, HCR 120, 121, 122, 123, HJR 129, HCR 134, HJR 135, HB 380, 466, 291, 407, and **471** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Denham moved to suspend the rules to act on a Resolution. Agreed.

Representative Denham moved the adoption of the following **HR 154**:

HR 154, A RESOLUTION adjourning the House of Representatives in loving memory and honor of United States Army Sergeant Justin Scott.

With deepest sympathy and admiration, we pay homage and tribute to Sergeant Justin Scott, and we pause in silent reverence for his soul.

WHEREAS, Justin Scott was born on Independence Day, July 4, 1981, a native of Bellevue, Campbell County, Kentucky; he was a valiant soldier who traversed these earthly bounds on January 29, 2004; and

WHEREAS, Sergeant Justin Scott is survived by his father and stepmother, William E. Scott, Jr. and Lisa A. Scott of Bellevue; his mother and stepfather, Karen S. and David L. Humphrey of Bromley; his sisters, Ciera R. Mitchell of Bromley and Samantha L. Scott of Bellevue; his brothers, James R. Mitchell of Bromley and Joseph M. Scott of Bellevue; his grandparents, Patricia Fuller of Villa Hills and William and Thelma Scott, Sr. of Germantown; his great-grandparents, Marietta Coffin of Villa Hills and Thelma Davis of Latonia; and his fiancee, Kristen A. Menkhaus of Villa Hills; and

WHEREAS, Sergeant Justin Scott was a natural career soldier, proven by his success in military missions and his high aptitude scores; and

WHEREAS, Sergeant Justin Scott was a Bellevue High School graduate where he was a football and baseball player, and he then became a member of the 10th Mountain Division of the U. S. Army, Fort Drum, New York; he spent eighteen months in the mountains of Afghanistan as a scout who led six soldiers on many dangerous missions; he had previously served two years in Israel in the midst of Palestinian conflict; and

WHEREAS, at the age of twenty-two, Sergeant Justin Scott was preparing to return home to his family, friends, and fiancee Kristen Menkhaus, with whom he had prepared a July wedding; he was scheduled to leave Afghanistan in March and begin this new life, which included a possible new career as a Northern Kentucky firefighter; and

WHEREAS, the life of Sergeant Justin Scott ended prematurely when he and seven other soldiers died outside Kabul, Afghanistan, in the village of Dehe Hendu, as they were in the process of disarming a weapons cache when it exploded; and

WHEREAS, Sergeant Justin Scott is Northern Kentucky's first military fatality in the war against terrorism; and

WHEREAS, Sergeant Justin Scott's friends and family are in deep mourning over the loss of this extremely well disciplined, funny, and likable young man who had a very bright future before him; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Sergeant Justin Scott and is deeply grateful for the sacrifice he made for the freedom of all Americans;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Sergeant Justin Scott and extends to his family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Sergeant Justin Scott.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the parents of Sergeant Justin Scott: Mr. and Mrs. William E. Scott, Jr., 318 Foote Avenue, Bellevue, Kentucky 41073, and Mr. and Mrs. David L. Humphrey, 199 Kenton Street, Bromley, Kentucky 41016; and to the grandparents of Sergeant Justin Scott: Patricia Fuller, 2828 Deerfield Drive, Villa Hills, Kentucky 41017, and William and Thelma Scott, Sr., 4035 Simms Lane, Germantown, Kentucky 41044; and to the great-grandparents of Sergeant Justin Scott: Marietta Coffin, 2828 Deerfield Drive, Villa Hills, Kentucky 41017, and Thelma Davis, Rosedale Manor, 4250 Glenn Avenue, Covington, Kentucky 41015; and to the fiancee of Sergeant Justin Scott: Kristen Menkhaus, 2575 Arrowhead Court, Villa Hills, Kentucky 41017.

There being no objection, **HR 154** was adopted.

The roll call was opened for co-sponsors of **HR 154**, and on the roll call the vote was: **Yeas 83.**

Representative Upchurch moved to suspend the rules to act on a Legislative Citation. Agreed.

Representative Upchurch moved the adoption of the following **Legislative Citation No. 49**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the esteemed members of Leadership McCreary County a remarkable program that develops high caliber citizens who are well-informed about the quality of life and the infrastructure of their communities. Inasmuch as Leadership McCreary County is a vital link in promoting the overall success of our communities and this fine Commonwealth, this honorable body is pleased to join with Representative Ken Upchurch in commending the participants of this outstanding program and graciously welcoming them to the House Chambers during this day's activities of the 2004 Regular Session of the Kentucky General Assembly. Done in Frankfort, Kentucky, this nineteenth day of February, in the year two thousand and four.

Legislative Citation No. 49 was adopted without objection.

Representative Harmon moved to suspend the rules to act on a Legislative Citation. Agreed.

Representative Harmon moved the adoption of the following **Legislative Citation No. 48**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the esteemed members of both the Leadership Washington County and Washington County Teen Leadership Programs remarkable programs that develop high caliber citizens who are well-informed about the quality of life and the infrastructure of their communities. Inasmuch as these outstanding leadership programs are vital links in promoting the overall success of our communities and this fine Commonwealth, this honorable body is pleased to join with Representative Mike Harmon in commending the participants and graciously welcoming them to the House Chambers during this day's activities of the Regular Session of the 2004 Kentucky General Assembly. Done in Frankfort, Kentucky, this nineteenth day of February, in the year two thousand and four.

Legislative Citation No. 48 was adopted without objection.

Representative Stewart moved to suspend the rules to act on a Legislative Citation. Agreed.

Representative Stewart moved the adoption of the following **Legislative Citation No. 47**.

Legislative Citation No. 47 was not in possession of the House Clerk.

Representative Adkins moved to suspend the rules to act on a Legislative Citation. Agreed.

Representative Adkins moved the adoption of the following **Legislative Citation No. 45**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the 2003 Governor's Scholars Legislative Day Participants and extends to these outstanding young scholars a warm welcome to the House Chambers as they gather in Frankfort, Kentucky, to be honored during the 2004 Regular Session of the Kentucky General Assembly. Such distinctive achievement as has been attained by these talented young students reflects exceptional diligence and hard work and brings well-deserved recognition to the schools and communities which are represented by these, Kentucky's best and brightest. The entire membership of this august body is delighted to join Speaker Jody Richards in applauding the members of the 2003 Kentucky Governor's Scholars Program on this notable occasion and in extending sincere best wishes for their continued success and good fortune. Done in Frankfort, Kentucky, this nineteenth day of February, in the year two thousand and four.

Legislative Citation No. 45 was adopted without objection.

The roll call was opened for co-sponsors of **Legislative Citation No. 45**, and on the roll call the vote was: **Yeas 92**.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 108** was delivered to the Senate and signed by the President. Delivered to the Governor on February 19, 2004, at 3:50 p.m.

Representative Adkins moved that the rules be suspended for a Rules Committee report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 291, 380, 407, 454, 460, 466, HCR 134, HJR 129, 135, 143, 150, HB 62, 132, 458, 112, 410,** and **172** have been posted for passage in the Regular Orders of the Day for February 20, 2004.

Orders of the Day

HJR 11, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Lee moved the adoption of the Committee Substitute to **HJR 11**. Agreed.

Representative J. Lee moved that **HJR 11**, by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 19, 2004, roll call on **HJR 11** - Appendix.)

HJR 11, by way of Committee Substitute, was adopted.

Representative J. Lee moved that the vote by which **HJR 11**, by way of Committee Substitute, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 161, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of the Committee Substitute to **HB 161**. Agreed.

Representative Stein moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 161**. Agreed.

Representative Lindsay moved that **HB 161**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 19, 2004, roll call on **HB 161** - Appendix.)

HB 161, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Lindsay moved that the vote by which **HB 161**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 376, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jenkins moved the adoption of the Committee Substitute to **HB 376**. Agreed.

Representative Jenkins moved that **HB 376**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 19, 2004, roll call on **HB 376** - Appendix.)

HB 376, by way of Committee Substitute, was passed and the title agreed to.

Representative Jenkins moved that the vote by which **HB 376**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message

Announcing passage: **SB 146** (3:30 p.m.)

Orders of the Day (Continued)

HB 441 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McKee moved that **HB 441** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See February 19, 2004, roll call on **HB 441** - Appendix.)

HB 441 was passed and the title agreed to.

Representative McKee moved that the vote by which **HB 441** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 69 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved that **HJR 69** be adopted.

On the roll call the vote was: **Yeas 92, Nays 0**. (See February 19, 2004, roll call on **HJR 69** - Appendix.)

HJR 69 was adopted.

Representative Collins moved that the vote by which **HJR 69** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 372, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Thompson moved the adoption of the Committee Substitute to **HB 372**. Agreed.

Representative B. Smith moved the adoption of Floor Amendment No. 8 to the Committee Substitute to **HB 372**. Agreed.

Representative T. Thompson moved that **HB 372**, by way of Committee Substitute, as amended, be passed.

Representative Wayne moved the adoption of Floor Amendment No. 10 to the Committee Substitute to **HB 372**.

On the roll call for Floor Amendment No. 10 to the Committee Substitute to **HB 372** the vote was: **Yeas 50, Nays 43**.

(See February 19, 2004, roll call on **HB 372** - Appendix.)

Floor Amendment No. 10 to the Committee Substitute to **HB 372** was adopted.

Representative T. Thompson moved that **HB 372**, by way of Committee Substitute, as amended, be passed.

Representative Crall moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 372**.

Representative Crimm inquired whether Floor Amendment No. 4 is germane.

Speaker Richards ruled Floor Amendment No. 4 is germane.

Representative Damron inquired whether Floor Amendment No. 4 contains the substantial text of **HB 227** and is a piggyback.

Speaker Richards ruled that Floor Amendment No. 4 is a piggyback amendment.

Representative Crall moved that the rules be suspended to consider Floor Amendment No. 4 to the Committee Substitute to **HB 372**.

On the roll call to suspend the rules to consider Floor Amendment No. 4 to the Committee Substitute to **HB 372**, the vote was: **Yeas 28, Nays 61**. (See February 19, 2004, roll call on **HB 372** - Appendix.)

The motion to suspend the rules to consider Floor Amendment No. 4 to the Committee Substitute to **HB 372** was defeated.

Representative Crall moved the adoption of Floor Amendment No. 5 to the Committee Substitute to **HB 372**.

The motion to adopt Floor Amendment No. 5 to the Committee Substitute to **HB 372** was defeated by voice vote.

Representative T. Thompson moved that **HB 372**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 89, Nays 4**. (See February 19, 2004, roll call on **HB 372** - Appendix.)

HB 372, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative T. Thompson moved that the vote by which **HB 372**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Belcher moved to withdraw Floor Amendments 4, 6, and 7 to **HB 172**. Agreed.

Representative Baugh moved the adoption of the following **Legislative Citation No. 46**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory and honor of Rev. H. Dudley Moseley of Auburn, Kentucky, and joins with Representative Sheldon Baugh in expressing deepest sympathy to the Moseley Family and all who share in the profound loss on the passing of this esteemed citizen. The son of the late Edward Willis and Gladys Trodglen Moseley, and preceded in death by his cherished son, Kirk Moseley, and brother, Rev. Donald Moseley, he is survived by his beloved wife, Faye Kirkman Moseley; daughter, Beth Moseley Chaudoin; sisters, Judy Moseley Baird and Jane Moseley Bugg; and, a host of other family members, friends and loved ones. Serving as the highly-regarded pastor of New Friendship Baptist Church at the time of his death, the esteemed citizen is remembered on this day for the many and generous contributions he made to his family, the church and community. Rev. H. Dudley Moseley will be deeply missed by all those whose lives were touched by his faithful and remarkable presence. Done in Frankfort, Kentucky, this nineteenth day of February, in the year two thousand and four.

Legislative Citation No. 46 was adopted without objection.

Representative McKee moved to suspend the rules to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 168, by Representative McKee: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Annie Pearl Crawford Welsh.

Motions, Petitions, and Communications (Continued)

Representative McKee moved the adoption of the following **HR 168**:

HR 168, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Annie Pearl Crawford Welsh.

With deepest respect and admiration, we pay homage and tribute to Annie Pearl Crawford Welsh, and we pause in silent reverence for her soul.

WHEREAS, Annie Pearl Crawford Welsh was born in November of 1901; she was a native of Ft. Pierce, Georgia, and she traversed these earthly bounds at the age of 102 on February 2, 2004 in Macon, Georgia; and

WHEREAS, Annie Pearl Crawford Welsh was the devoted wife of the late William Franklin Welsh, a native of Jackson County, Kentucky, and longtime resident of Estill County, Kentucky; as his wife, Annie Pearl Crawford Welsh was immensely proud of her husband's distinguished service to the people of Estill County; he represented his constituents from House District 73 with honesty and integrity during the 1910 session of the General Assembly, and he ably represented his constituents from Senate District 29 during the 1912 and 1914 sessions of the General Assembly; and

WHEREAS, Senator William Franklin Welsh was a successful attorney and businessman who established the first telephone system in Estill County; and with his success, he also became a philanthropist; an example of his philanthropy occurred when he contracted to have a church building erected for a small Methodist congregation in Irvine, then allowed the young congregation to purchase the building from him for the sum of $1.00, and because of his generosity, the congregation remains active today; and

WHEREAS, the passing of Annie Pearl Crawford Welsh has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Annie Pearl Crawford Welsh, and extends to her family its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Annie Pearl Crawford Welsh.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Thomas McKee for presentation to the family of Annie Pearl Crawford Welsh.

There being no objection, **HR 168** was adopted.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 546, by Representative Gooch: AN ACT relating to state risk.

HB 547, by Representative Geveden: AN ACT relating to crimes and punishments.

HB 548, by Representative Hoffman: AN ACT relating to compensatory time.

HB 549, by Representatives Cherry and Buckingham: AN ACT relating to state employee political activities.

HB 550, by Representatives Webb and Vincent: AN ACT relating to the Department of Juvenile Justice and declaring an emergency.

HB 551, by Representative Adkins: AN ACT relating to certified employees called to active military service.

HB 552, by Representatives Meeks, Webb, Marzian, Jenkins, Graham, and Crenshaw: AN ACT proposing an amendment to Sections 145 and 150 of the Constitution of Kentucky relating to the restoration of civil rights for felons.

HR 169, by Representative Rasche: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Ethel Blanche Richardson Alston.

HR 170, by Representative Bather: A RESOLUTION adjourning the House of Representatives in loving memory and honor of the Reverend Edward Deedom Alston.

Motions, Petitions, and Communications (Continued)

Pursuant to House Rule 48, Representative Hoover filed a discharge petition on **SB 1** signed by Representatives Rader, Farmer, Ford, Mobley, Higdon, Feeley, Crall, Draud, Baugh, Marcotte, Cornett, B. Smith, Brinkman, Crimm, Bratcher, S. Lee, Harmon, Harper, Fischer, Montell, Dw. Butler, Upchurch, Comer, T. Turner, Nunn, Walton, Embry, Stewart, DeWeese, and Reinhardt.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and a Resolution have been posted for Committee consideration:

Health and Welfare: **HB 516, 529, 492, 502, 255, 288**

Labor and Industry: **HB 415, HR 139, SB 45**

Licensing and Occupations: **HB 461, 497**

Local Government: **HB 485, 531, 521**

State Government: **HB 519, 528**

The Clerk announced that the following Bills have been withdrawn from posting for Committee consideration:

Licensing and Occupations: **HB 442, 70, 84**

Natural Resources and Environment: **HB 179**

Floor Amendments

Floor Amendment No. 2 Title to **HB 53**, by Representative Marcotte:

HB 53, On page 1, in the title, after "control" insert "and declaring an emergency"

Floor Amendment No. 1 to the Committee Substitute to **HB 199**, by Representative Hall:

HB 199, On page 2, line 4, place brackets around and strike through the subsection number "(1)"; and

On page 2, lines 7 through 11, delete all new language on lines 7 through 11; and

On page 2, line 7, place an opening bracket "[" before the subsection number "(2)" and strike through the subsection number "(2)"; and

On page 2, line 11, delete the opening bracket "[".

Floor Amendment No. 1 to **HB 149**, by Representative Burch:

HB 149, On page 1, by deleting lines 3 to 18 in their entirety and inserting in lieu thereof:

"*(1) All public and independent postsecondary education institutions shall provide first-time, full-time students with information about hepatitis B disease. The information shall include:*

(a) Symptoms and treatment;

(b) The risk factors associated with hepatitis B acquisition and transmission; and

(c) Current recommendations from the United States Centers for Disease Control and Prevention, or the American College Health Association regarding the availability and effectiveness of a hepatitis B vaccination.

(2) Nothing in this section shall be construed to require the Cabinet for Health Services or the postsecondary institutions to provide or purchase vaccinations for hepatitis B."

Floor Amendment No. 11 to the Committee Substitute to **HB 372**, by Representative Bather:

HB 372, On page 5, line 15, by deleting "*not*"; and

On page 5, line 16, after "*services*" by adding "*, unless authorized in writing by the health benefit plan prior to delivery of services*".

Floor Amendment No. 3 to **HJR 7**, by Representative Rader:

HJR 7, On page 3, line 1, after "Section 1." and before the word "The" insert "Subject to the provisions of Section 3 of this Resolution" and by making the uppercase word "The" a lowercase word "the"; and

On page 3, line 3, after "Section 2." and before the word "The" insert "Subject to the provisions of Section 3 of this Resolution" and by making the uppercase word "The" a lowercase word "the"; and

On page 3, after line 5, add the following new Section 3 to read as follows:

"Section 3. Before the Transportation Cabinet may take any steps to rename the Hal Rogers Parkway or expend any funds to rename the Hal Rogers Parkway the cabinet shall investigate the safety hazard associated with swinging bridges in Breathitt County and develop a plan and design for ensuring the safety and access to residents of Breathitt County affected by the swinging bridges.".

Floor Amendment No. 5 to the Committee Substitute to **HB 450**, by Representative Wilkey:

HB 450, On page 30, line 16, by deleting "*circuit clerk*" and inserting in lieu thereof "*Circuit judge*"; and

On page 30, line 17, by deleting "*(4) of Section 30*" and inserting in lieu thereof "*(2) of Section 28*"; and

On page 31, line 18, by deleting the second use of the word "*with*" and inserting "*within*" in lieu thereof; and

On page 37, line 14, by deleting "*breech*" and inserting in lieu thereof "*breach*".

Floor Amendment No. 6 Title to **HB 450**, by Representative Wilkey:

HB 450, By amending the title to read as follows: "AN ACT relating to health care providers and making an appropriation.".

Floor Amendment No. 1 to **HB 371**, by Representative Wilkey:

HB 371, On page 2, line 18, by deleting same and inserting the following in lieu thereof:

"*(a) The offense was not a sex offense, an offense committed against a minor, or a felony offense in KRS Chapter 507 or 508;*".

Floor Amendment No. 1 to the Committee Substitute to **HB 407**, by Representative Bratcher:

HB 407, On page 2, between lines 8 and 9, by inserting the following:

"*(7) Prior to granting a motion for shock probation, a court shall make a factual finding that the requirements outlined in the Kentucky Crime Victim Bill of Rights, KRS 421.500 to 421.575, relating to crime victim notification and crime victim impact statements have been met.*"; and

On page 2, line 9, by deleting "*(7)*" and inserting "*(8)*" in lieu thereof; and

On page 5, after line 20, by inserting the following:

"Section 4. KRS 421.500 is amended to read as follows:

(1) As used in KRS 421.500 to 421.575, "victim" means an individual who suffers direct or threatened physical, financial, or emotional harm as a result of the commission of a crime classified as stalking, unlawful imprisonment, use of a minor in a sexual performance, unlawful transaction with a minor in the first degree, terroristic threatening, menacing, harassing communications, intimidating a witness, criminal homicide, robbery, rape, assault, sodomy, kidnapping, burglary in the first or second degree, sexual abuse, wanton endangerment, criminal abuse, or incest. If the victim is a minor or legally incapacitated, "victim" means a parent, guardian, custodian or court-appointed special advocate. If the victim is deceased and the relation is not the defendant, the following relations shall be designated as "victim" for the purpose of exercising those rights contained in KRS 421.500 to 421.575:

(a) The spouse;

(b) An adult child if paragraph (a) of this subsection does not apply;

(c) A parent if paragraphs (a) and (b) of this subsection do not apply;

(d) A sibling if paragraphs (a) through (c) of this subsection do not apply; and

(e) A grandparent if paragraphs (a) through (d) of this subsection do not apply.

(2) If any court believes that the health, safety, or welfare of a victim who is a minor or is legally incapacitated would not otherwise adequately be protected, the court may appoint a special advocate to represent the interest of the victim and to exercise those rights provided for by KRS 421.500 to 421.575. Communication between the victim and the special advocate shall be privileged.

(3) Law enforcement personnel shall ensure that victims receive information on available protective, emergency, social, and medical services upon initial contact with the victim and are given information on the following as soon as possible:

(a) Availability of crime victim compensation where applicable;

(b) Community based treatment programs;

(c) The criminal justice process as it involves the participation of the victim or witness;

(d) The arrest of the accused; and

(e) How to register to be notified when a person has been released from prison, jail, a juvenile detention facility, or a psychiatric facility or forensic psychiatric facility if the case involves a violent crime as defined in KRS 439.3401 and the person charged with or convicted of the offense has been involuntarily hospitalized pursuant to KRS Chapter 202A.

(4) Law enforcement officers and attorneys for the Commonwealth shall provide information to victims and witnesses on how they may be protected from intimidation, harassment, and retaliation as defined in KRS 524.040, 524.045, or 524.055.

(5) Attorneys for the Commonwealth shall make a reasonable effort to insure that:

(a) All victims and witnesses who are required to attend criminal justice proceedings are notified promptly of any scheduling changes that affect their appearances;

(b) If victims so desire and if they provide the attorney for the Commonwealth with a current address and telephone number, they shall receive prompt notification, if possible, of judicial proceedings relating to their case, including, but not limited to, the defendant's release on bond and any special conditions of release; of the charges against the defendant, the defendant's pleading to the charges, and the date set for the trial; of notification of changes in the custody of the defendant and changes in trial dates; of the verdict, the victim's right to make an impact statement for consideration by the court at the time of sentencing of the defendant, the date of sentencing, the victim's right to receive notice of any parole board hearing held for the defendant, and that the office of Attorney General will notify the victim if an appeal of the conviction is pursued by the defendant; and of a ***motion or*** scheduled hearing for shock probation or for bail pending appeal and any orders resulting from that hearing; and

(c) The victim knows how to register to be notified when a person has been released from a prison, jail, a juvenile detention facility, or a psychiatric facility or forensic psychiatric facility if the case involves a violent crime as defined in KRS 439.3401 and the person charged with or convicted of the offense has been involuntarily hospitalized pursuant to KRS Chapter 202A;

(d) The victim receives information on available:

1. Protective, emergency, social, and medical services;
2. Crime victim compensation, where applicable;
3. Restitution, where applicable;
4. Assistance from a victim advocate; and
5. Community-based treatment programs; and

(e) The victim of crime may, pursuant to KRS 15.247, receive protection from harm and threats of harm arising out of cooperation with law enforcement and prosecution efforts.

(6) The victim shall be consulted by the attorney for the Commonwealth on the disposition of the case including dismissal, release of the defendant pending judicial proceedings, any conditions of release, a negotiated plea, and entry into a pretrial diversion program.

(7) In prosecution for offenses listed in this section for the purpose of defining "victim," law enforcement agencies and attorneys for the Commonwealth shall promptly return a victim's property held for evidentiary purposes unless there is a compelling reason for retaining it. Photographs of such property shall be received by the court as competent evidence in accordance with the provisions of KRS 422.350.

(8) A victim or witness who so requests shall be assisted by law enforcement agencies and attorneys for the Commonwealth in informing employers that the need for victim or witness cooperation in the prosecution of the case may necessitate absence of that victim or witness from work.

(9) The Attorney General, where possible, shall provide technical assistance to law enforcement agencies and attorneys for the Commonwealth if such assistance is requested for establishing a victim assistance program.

(10) If a defendant seeks appellate review of a conviction and the Commonwealth is represented by the Attorney General, the Attorney General shall make a reasonable effort to notify victims promptly of the appeal, the status of the case, and the decision of the appellate court.

Section 5. KRS 421.520 is amended to read as follows:

(1) The attorney for the Commonwealth shall notify the victim that, upon conviction of the defendant, the victim has the right to submit a written victim impact statement to the probation officer responsible for preparing the presentence investigation report for inclusion in the report or to the court should such a report be waived by the defendant ***or the court has before it a motion for shock probation. The victim may file a separate impact statement in response to a motion for shock probation***.

(2) The impact statement may contain, but need not be limited to, a description of the nature and extent of any physical, psychological or financial harm suffered by the victim, the victim's need for restitution and whether the victim has applied

for or received compensation for financial loss, and the victim's recommendation for an appropriate sentence***, including whether shock probation should be granted***.

(3) The victim impact statement shall be considered by the court prior to any decision on the sentencing or release, including shock probation, of the defendant.".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 95, Representative Embry

HB 227, Representative Palumbo

HB 336, Representative Marzian

HB 358, Representative Embry

HB 372, Representative Yonts

HB 376, Representative McKee

HB 470, Representatives Nelson and A. Smith

HB 471, Representative Meeks

HB 483, Representative Kerr

HB 485, Representative Riggs

HB 519, Representatives Embry, Graham, Buckingham, Coleman, Edmonds, Draud, Kerr, Wayne, A. Arnold, and J. Arnold

HB 528, Representative L. Clark

HJR 136, Representative Palumbo

HR 162, Representatives Marzian, Miller, Wayne, Meeks, P. Clark, Burch, Riggs, Horlander, and L. Clark

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 9:00 a.m., Friday, February 20, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 9:00 a.m., Friday, February 20, 2004, was adopted by voice vote.

FRIDAY, FEBRUARY 20, 2004

THIRTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Gregory Porterfield, Nicholasville Christian Church, Nicholasville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Bather, Bruce, Burch, Fischer, Haydon, Marzian, Nunn, Siler, and Weaver.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 19, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **SB 133, 146**

Banking and Insurance: **HB 545, 546**

Education: **SB 52, 71**

Elections, Constitutional Amendments, and Intergovernmental Relations: **HB 552**

Judiciary: **HB 544, 547, 550**

Local Government: **HB 548, SB 60**

Natural Resources and Environment: **HB 543**

Seniors, Military Affairs and Public Safety: **HB 551**

State Government: **HB 549**

Transportation: **SB 160**

House Floor: **HR 169, 170**

Calendar

HB 262, 400, 477, HJR 136, HB 331, 473, HJR 55, HJR 107, 116, HCR 124, HR 140, HJR 147, and **HB 336** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HJR 7, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved that the rules be suspended to grant floor privileges to Mr. & Mrs. Bentley, descendants of Daniel Boone.

Representative Yonts moved the adoption of Floor Amendment No. 1 to **HJR 7**. Agreed.

Representative Yonts moved that **HJR 7**, as amended, be adopted.

On the roll call the vote was: **Yeas 88, Nays 0**. (See February 20, 2004, roll call on **HJR 7** - Appendix.)

HJR 7, as amended, was adopted.

Representative Yonts moved the adoption of Floor Amendment No. 2 Title to **HJR 7**. Agreed.

Representative Yonts moved that the vote by which **HJR 7**, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 129, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Senate Message

Announcing passage of **SB 2, 62, 78, 83, 118, 132, 142, 155,** and **HB 287**. (9:10 a.m.)

Message received in regard to **HJR 64**: The Senate has passed **HJR 64** with the following Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body. (9:10 a.m.)

Orders of the Day (Continued)

Representative Pullin moved the adoption of the Committee Substitute to **HJR 129**. Agreed.

Representative Pullin moved that **HJR 129**, by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 88, Nays 0**. (See February 20, 2004, roll call on **HJR 129** - Appendix.)

HJR 129, by way of Committee Substitute, was adopted.

Representative Pullin moved that the vote by which **HJR 129**, by way of Committee Substitute, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 458 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 287** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -9:30 a.m.)

Orders of the Day (Continued)

Representative Belcher moved that **HB 458** be passed.

On the roll call the vote was: **Yeas 83, Nays 4**. (See February 20, 2004, roll call on **HB 458** - Appendix.)

HB 458 was passed and the title agreed to.

Representative Belcher moved that the vote by which **HB 458** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 150 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pullin moved that **HJR 150** be adopted.

On the roll call the vote was: **Yeas 87, Nays 0**. (See February 20, 2004, roll call on **HJR 150** - Appendix.)

HJR 150 was adopted.

Representative Pullin moved that the vote by which **HJR 150** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 357, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rand moved the adoption of the Committee Substitute to **HB 357**. Agreed.

Representative Rand moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 357**. Agreed.

Representative Vincent moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 357**. Agreed.

Representative Rand moved that **HB 357**, by way of Committee Substitute, as amended, be passed.

Representative Rand moved to withdraw the motion to pass **HB 357**, by way of Committee Substitute, as amended. Agreed.

Representative Rand moved that **HB 357** be placed back in the Orders of the Day and retain its position. Agreed.

HB 450, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved the adoption of the Committee Substitute to **HB 450**. Agreed.

Representative Wilkey moved the adoption of Floor Amendment No. 5 to the Committee Substitute to **HB 450**. Agreed.

Representative Wilkey moved that **HB 450**, by way of Committee Substitute, as amended, be passed.

Representative Riner moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 450**.

On the roll call to adopt Floor Amendment No. 3 the vote was: **Yeas 3, Nays 78**. (See February 20, 2004, roll call on **HB 450** - Appendix.)

The motion to adopt Floor Amendment No. 3 to the Committee Substitute to **HB 450**, was defeated.

Speaker Pro Tem Clark assumed the Chair.

Speaker Richards resumed the Chair.

Representative Gooch moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 450**.

Representative Wilkey inquired whether Floor Amendment No. 2 is germane.

Speaker Richards ruled that Floor Amendment No. 2 is not germane.

Representative Hoover moved to lay **HB 450**, by way of Committee Substitute, as amended, on the Clerk's Desk, pursuant to House Rule 15.

On the roll call that **HB 450**, by way of Committee Substitute, as amended, be laid on the Clerk's Desk the vote was: **Yeas 32, Nays 57**. (See February 20, 2004, roll call on **HB 450** - Appendix.)

The motion that **HB 450**, by way of Committee Substitute, as amended, be laid on the Clerk's Desk was defeated.

Representative Upchurch moved that the rules be suspended to act upon the Discharge Petition on **SB 1**, pursuant to House Rule 48.

Speaker Richards ruled that the motion to consider the Discharge Petition on **SB 1** was out of order.

On the roll call on the passage of **HB 450**, by way of Committee Substitute, as amended, the vote was: **Yeas 70 , Nays 19**. (See February 20, 2004, roll call on **HB 450** - Appendix.)

HB 450, by way of Committee Substitute, as amended, was passed.

Representative Wilkey moved the adoption of Floor Amendment No. 6 Title to **HB 450**. Agreed.

Representative Wilkey moved that the vote by which **HB 450**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, Communications

Representative Upchurch moved that the rules be suspended to consider the Discharge Petition on **SB 1**.

On the roll call to suspend the Rules to consider the motion to suspend the rules to consider the Discharge Petition on **SB 1**, the vote was: **Yeas 28, Nays 44**. (See February 20, 2004, roll call on the Discharge Petition on **SB 1** - Appendix.)

The motion to suspend the Rules to consider the Discharge Petition on **SB 1** was defeated.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 553, by Representatives Hall, Nelson, and Stewart: AN ACT relating to educators and making an appropriation therefor.

HB 554, by Representative Collins: AN ACT relating to certified personnel evaluation.

HB 555, by Representative Baugh: AN ACT relating to health insurance.

HB 556, by Representatives Gooch, Hall, Yonts, Ballard, Buckingham, and J. Arnold: AN ACT relating to coalbed methane development and making an appropriation therefor.

HB 557, by Representative Napier: AN ACT relating to presidential preference primaries.

HB 558, by Representative Westrom: AN ACT relating to the Kentucky Board of Licensure and Certification for Dietitians and Nutritionists.

HR 171, by Representatives Crall and Thompson: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Wilma D. Colby.

HCR 172, by Representative L. Clark: A CONCURRENT RESOLUTION directing the Legislative Research Commission to establish a task force to study pupil transportation funding in local school districts.

HR 173, by Representative Riggs: A RESOLUTION urging Cinergy Corp. to reduce pollution emitted from its Gallagher Power Plant.

HR 174, by Representatives Rasche, L. Clark, Callahan, Barrows, Adkins, Richards, Draud, and Geveden: A RESOLUTION urging the United States Congress to fully fund the No Child Left Behind Act and to allow states more flexibility in implementing its requirements.

HR 175, by Representatives Jenkins and J. Lee: A RESOLUTION recognizing March as Sexual Assault Awareness Month in Kentucky and honoring Kentucky's thirteen regional rape crisis centers.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

State Government: **HB 535, 512, 549**

Appropriations and Revenue: **HB 297, 323, 351, 413, 434, 489, 498, 518**

Motions, Petitions, and Communications (Continued)

Representative Buckingham moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Buckingham moved that he be recorded as voting "yea" on **HB 90** and **359**. Agreed.

Representative Stacy moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Stacy moved that he be recorded as voting "yea" on **HB 445**. Agreed.

Representative McKee moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative McKee moved that he be recorded as voting "yea" on **HJR 129**. Agreed.

Representative J. Arnold moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Arnold moved that he be recorded as voting "yea" on **HB 372**. Agreed.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 454**, by Representative Hoffman:

HB 454, On page 1, delete lines 8 and 9 in their entirety and insert in lieu thereof:

"*(3) Eligible applicants for funds under the Disaster Relief Funding Program trust fund shall be limited to:*"; and

On page 1, delete line 17 in its entirety and insert in lieu thereof:

"*(a) The eligible applicant is identified in subsection (3) of this section. Furthermore, the eligible applicant incurred damages in an area where the Governor has*"; and

On page 1, delete lines 21 and 22 in their entirety and insert in lieu thereof:

"*(b) The eligible applicant is identified in subsection (3)(a) of this section. Furthermore, the eligible applicant must pay a state contribution required*".

Floor Amendment No. 1 to the Committee Substitute to **HB 262**, by Representative Westrom:

HB 262, On page 2, line 25, by deleting "*daily*".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and a Resolution:

HB 357, Representative Sims

HB 413, Representative Callahan

HB 450, Representative McKee

HB 460, Representative Couch

HB 483, Representative Hall

HB 519, Representatives Callahan, Damron, Cherry, and J. Thompson

HB 528, Representative Crall

HR 173, Representatives Bather, De. Butler, Marzian, P. Clark, Miller, Wayne, Meeks, Burch, Horlander, Jenkins, and L. Clark

Announcements

The following meetings were announced:

Budget Review Subcommittee on Human Resources - Monday, February 23, 2004, meeting canceled,

Committee on Labor and Industry - Tuesday, February 24, 2004, 12:00 Noon, Room 125

Budget Review Subcommittee on Justice and Judiciary - Monday, February 23, 2004, upon adjournment

Budget Review Subcommittee on General Government, Finance, and Public Protection - Monday, February 23, 2004, 2:00 p.m.

Committee on Natural Resources and Environment - Tuesday, February 24, 2004, 8:30 a.m.

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 4:00 p.m., Monday, February 23, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 4:00 p.m., Monday, February 23, 2004, was adopted by voice vote.

MONDAY, FEBRUARY 23, 2004

THIRTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Robert A. Strode, St. John AME Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

A Certificate of Election for District 95 was filed and read.

I, Trey Grayson, Secretary of State of the Commonwealth of Kentucky, do hereby certify that the attached is a true and exact copy of the Certificate of Election issued on February 20, 2004 to Charles "Chuck" Meade as the duly elected member of the House of the General Assembly, 95th Representative District, of the Commonwealth of Kentucky. Given under my hand and seal of office this 20th day of February, 2004. Trey Grayson, Secretary of State, Commonwealth of Kentucky.

Charles E. Meade was administered the oath of office by Justice James E. Keller of the Kentucky Supreme Court.

The roll was called. All members present except Representatives R. Adams, Bather, Mobley, Reinhardt, and Siler.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 20, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HR 176, by Representative Adkins: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Glen O. Boodry.

HR 177, by Representative Adkins: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Benjamin F. Lowe.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **HB 555**

Education: **HB 553, 554, HCR 172, HR 174**

Elections, Constitutional Amendments, and Intergovernmental Relations: **HB 557**

Health and Welfare: **SB 62**

Judiciary: **SB 78, 155**

Licensing and Occupations: **HB 558, SB 132**

Local Government: **SB 142**

Natural Resources and Environment: **HB 556**

Seniors, Military Affairs and Public Safety: **SB 83**

Tourism Development and Energy: **SB 118**

Transportation: **SB 2**

House Floor: **HR 171, 173, 175**

Report of Committees

The Committee on Committees has met and reported the following changes:

APPOINT:

Representative Meade to

Committee on Natural Resources and Environment

Committee on Transportation

Committee on Economic Development

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill and Resolutions have been posted for Committee consideration:

Seniors, Military Affairs and Public Safety: **HB 551, HJR 142, HR 155**

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order. Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committee

The Committee on Rules reported that **HB 262, 331, 336, 400, 473, HCR 124, HJR 55, 107, 116, 136, 147, HR 140,** and **HB 471** have been posted for passage in the Regular Orders of the Day for February 24, 2004.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 287** was delivered to the Senate and signed by the President. Delivered to the Governor on February 23, 2004 at 4:30 p.m.

Orders of the Day

HB 81, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HB 81**. Agreed.

Representative Burch moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 81**.

Representative Lindsay inquired whether Floor Amendment No. 1 is germane.

Speaker Richards ruled that Floor Amendment No. 1 is not germane.

Representative Burch moved that **HB 81**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 81, Nays 7**. (See February 23, 2004, roll call on **HB 81** - Appendix.)

HB 81, by way of Committee Substitute, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 81**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 71, with Committee Substitute, Committee Amendment, and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of the Committee Substitute to **HB 71**. Agreed.

Representative Vincent moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 71**. Agreed.

Representative Marzian moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 71**. Agreed.

Representative Marzian moved that **HB 71**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 84, Nays 5**. (See February 23, 2004, roll call on **HB 71** - Appendix.)

HB 71, by way of Committee Substitute, as amended, was passed.

Representative Marizan moved the adoption of Committee Amendment No. 1 Title to **HB 71**.

Representative Marzian moved that the vote by which **HB 71**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 360 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stein moved that **HB 360** be passed.

On the roll call the vote was: **Yeas 79, Nays 10**. (See February 23, 2004, roll call on **HB 360** - Appendix.)

HB 360 was passed and the title agreed to.

Representative Stein moved that the vote by which **HB 360** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 466, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative De. Butler moved the adoption of the Committee Substitute to **HB 466**. Agreed.

Representative De. Butler moved that **HB 466**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 46, Nays 38**. (See February 23, 2004, roll call on **HB 466** - Appendix.)

HB 466, by way of Committee Substitute, was passed and the title agreed to.

Representative De. Butler moved that the vote by which **HB 466**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 134, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Adams moved the adoption of Committee Amendment No. 1 to **HCR 134**. Agreed.

Representative J. Adams moved that **HCR 134**, as amended, be adopted.

On the roll call the vote was: **Yeas 92, Nays 0**. (See February 23, 2004, roll call on **HCR 134** - Appendix.)

HCR 134, as amended, was adopted.

Representative J. Adams moved that the vote by which **HCR 134**, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins moved that the rules be suspended to waive the posting requirement on the following: **HB 551, 556, HR 155,** and **HJR 142**. Agreed.

Representative Denham moved the adoption of the following **Legislative Citation No. 51**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory and honor of Mary Alice Willett and joins with Representative Mitchel Denham in expressing profound sympathy to the Willett and Gifford Families and all those who share in the loss of this highly-regarded citizen. Preceded in death by her parents, Ben and Agnas Poe Gifford; cherished husband, Raymond Willett; and brothers, Clifton Gifford and Calvert Gifford, she is survived by her beloved sons, Jerry Willett, Bob Willett and Dick Willett; brother, Clarence Gifford; six grandchildren; twelve great-grandchildren; and, a host of other family members, friends and loved ones. This esteemed citizen, a skilled homemaker and housewife and a member of the Fernleaf Garden Club Homemakers and Germantown United Methodist Church, is remembered on this day for the many and generous contributions she made to her family, her community, and to this fine Commonwealth. Mary Alice Willett will be deeply missed by all those whose lives were touched by her remarkable presence. Done in Frankfort, Kentucky, this twenty-third day of February, in the year two thousand and four.

Legislative Citation No. 51 was adopted without objection.

Representative Comer moved that the rules be suspended to withdraw **HB 230**. Agreed.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 559, by Representative Meeks: AN ACT relating to cemeteries.

HB 560, by Representative Meeks: AN ACT relating to human remains and burial objects.

HB 561, by Representative Burch: AN ACT relating to livery transportation and declaring an emergency.

HB 562, by Representative Weaver: AN ACT relating to the issuance of operator's licenses and nondriver identification cards.

HB 563, by Representative Weaver: AN ACT relating to detection of deception examiners.

HB 564, by Representative Weaver: AN ACT relating to military affairs.

HB 565, by Representative Geveden: AN ACT relating to fees.

HB 566, by Representatives B. Smith and Cornett: AN ACT relating to death benefits for police and firefighters in cities of the second and third class.

HB 567, by Representative Gooch: AN ACT relating to life insurance.

HB 568, by Representative Gooch: AN ACT relating to Medicare supplement insurance policies.

HB 569, by Representative McKee: AN ACT authorizing the payment of certain claims against the state which have been duly audited and approved according to law, and have not been paid because of the lapsing or insufficiency of former appropriations against which the claims were chargeable, or the lack of an appropriate procurement document in place, making an appropriation therefore, and declaring an emergency.

HB 570, by Representatives Jenkins, L. Clark, Miller, Meeks, Marzian, P. Clark, Burch, Horlander, Riggs, Wayne, Riner, and De. Butler: AN ACT relating to collective bargaining for police officers in a consolidated local government.

HB 571, by Representatives Feeley, Marzian, Vincent, Simpson, and Pullin: AN ACT relating to the Board of Dentistry.

HB 572, by Representative Stein: AN ACT relating to collective bargaining.

HB 573, by Representative Stein: AN ACT relating to health insurance coverage for contraceptives.

HB 574, by Representative Stein: AN ACT abolishing divorce, divorce from bed and board, legal separation, and annulment of marriage.

HB 575, by Representatives Thomas and Marzian: AN ACT relating to personal and family care homes.

HB 576, by Representatives Buckingham, Bruce, Brinkman, and Marzian: AN ACT relating to public health education.

HB 577, by Representatives Buckingham, L. Clark, Ballard, Hall, Yonts, Adkins, and Richards: AN ACT relating to coalbed methane development and making an appropriation therefor.

HB 578, by Representative Baugh: AN ACT relating to insurable interests.

HB 579, by Representative Baugh: AN ACT relating to continued group health insurance and conversion health insurance.

HB 580, by Representative Burch: AN ACT relating to Medicaid estate recovery.

HR 178, by Representative Nesler: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Kenneth Ray Mathis.

HR 179, by Representative Moberly: A RESOLUTION declaring February 26, 2004 as Kentucky Museum and History Day

HR 180, by Representatives Graham and Barrows: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Lieutenant Jeffrey C. Graham.

HR 181, by Representative Stein: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Dr. Sheldon Schiller.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Tourism Development and Energy: **SB 161, HB 539**

Education: **SB 28, HB 540**

Natural Resources and Environment: **HB 556, 355**

Motions, Petitions, and Communications (Continued)

Representative Adkins moved that the rules be suspended to reassign **SB 70** to the Committee on Appropriations and Revenue. Agreed.

Representative Montell moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Montell moved that he be recorded as voting "yea" on **HB 81**. Agreed.

Representative Denham moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Denham moved that he be recorded as voting "nay" on **HB 466**. Agreed.

Representative T. Thompson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative T. Thompson moved that he be recorded as voting "nay" on **HB 466**. Agreed.

Representative Pullin moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Pullin moved that she be recorded as voting "nay" on **HCR 134**. Agreed.

Representative Cherry moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Cherry moved that his vote be changed from "yea" to "nay" on **HB 466**. Agreed.

Representative B. Smith moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative B. Smith moved that he be recorded as voting "yea" on the motion to suspend the rules to consider the Discharge Petition on **SB 1**. Agreed.

Representative Pullin moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Pullin moved that she be recorded as voting "yea" on the motion to suspend the rules to consider the Discharge Petition on **SB 1**. Agreed.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 336**, by Representative Montell:

HB 336, On page 3, after line 16, by inserting:

"*(4) Any person with feral cats on his premises shall make a reasonable effort to capture and vaccinate the cats.*".

Floor Amendment No. 8 to the Committee Substitute No. 2 to **HB 172**, by Representative Weaver:

HB 172, On page 2, line 7, delete line 7 in its entirety and insert in lieu thereof:

"*2. Renewal Fee: $8 ($0 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460)*";

and

On page 2, line 20, delete line 20 in its entirety and insert in lieu thereof:

"*2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460)*".

Floor Amendment No. 1 to **HJR 147**, by Representative Denham:

HJR 147, On page 1, line 2, by deleting the word "Montgomery" and inserting "Mason, Fleming, Bath, Montgomery," in lieu thereof; and

On page 1, line 4, by deleting the word "Montgomery" and inserting "Mason, Fleming, Bath, Montgomery," in lieu thereof.

Floor Amendment No. 2 Title to **HJR 147**, by Representative Denham:

HJR 147, By amending the title to read :"A JOINT RESOLUTION naming a section of Kentucky Route 11 "The Veterans Highway." "

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 336, Representative Bratcher

HB 339, Representative Harmon

HB 390, Representatives Jenkins, Baugh, Dw. Butler, P. Clark, Walton, Embry, Crall, J. Adams, Ford, Feeley, and Cornett

HB 399, Representative Napier

HB 475, Representative Riner

HB 493, Representatives Farmer and Haydon

HB 519, Representatives Yonts and Pasley

HB 520, Representative Embry

HB 521, Representative Embry

HB 554, Representative Embry

HJR 147, Representative Denham

HR 87, Representative Denham

Announcements

The following meetings were announced:

Committee on Labor and Industry: Tuesday, February 24, 2004, 12:00 Noon, Room 125

Budget Review Subcommittee on Justice and Judiciary: 30 minutes upon adjournment

Committee on Seniors, Military Affairs, and Public Safety: Tuesday, February 24, 2004, 9:00 a.m., Room 129

Committee on Natural Resources and Environment: Tuesday, February 24, 2004, 8:30 a.m.

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 2:00 p.m., Tuesday, February 24, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 2:00 p.m., Tuesday, February 24, 2004, was adopted by voice vote.

TUESDAY, FEBRUARY 24, 2004

THIRTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Pastor Evan Meyer, Fairview Christian Church, Foster, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Hoover, Nunn, and Siler.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 23, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 581, by Representatives P. Clark and Walton: AN ACT relating to regulatory takings.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 569**

Banking and Insurance: **HB 567, 568, 573, 578, 579**

Health and Welfare: **HB 571, 575, 580**

Judiciary: **HB 563, 565, 574**

Labor and Industry: **HB 570, 572**

Licensing and Occupations: **HB 559, 560**

Local Government: **HB 566**

Seniors, Military Affairs and Public Safety: **HB 562, 564**

Tourism Development and Energy: **HB 577**

Transportation: **HB 561, 576**

House Floor: **HR 176, 177, 178, 179, 180, 181**

Report of Committees

The Committee on Seniors, Military Affairs, and Public Safety reported **HB 551, HJR 142,** and **HR 155** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 551, AN ACT relating to certified employees called to active military service.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other statute to the contrary, a certified employee of a local board of education who is called to active military duty shall be granted a leave of absence for this purpose and shall be considered to be rendering service to the state.

(1) A local board of education that has granted military leave to a certified employee and has a commitment from the employee to return to work upon his or her honorable discharge may provide the employer's contribution toward the purchase of the state's medical insurance program during the period of military leave as long as the employee or spouse pays the additional cost of dependent coverage.

(2) Upon the employee's return to work, a local school district may pay the member contribution and any accrued interest that is required to be paid to the Kentucky Teachers' Retirement System under KRS 161.507(4)(b) in order for the member to receive retirement service credit for the period of active military duty. This payment shall be paid in lump sum by the school district directly to the retirement system on the member's behalf under the conditions set forth in KRS 161.540(2). This lump sum payment shall not be included in a member's annual compensation as defined under KRS 161.220(10). Under no circumstances shall a member be entitled to service credit under this paragraph that is in violation of the provisions of KRS 161.500.

(3) For each year of military service or each year of combined military and school service within a school year, the certified employee shall receive a year of service credit for purposes of the district's single salary schedule defined in KRS 157.320.

(4) No provisions of this section shall be construed to provide disability benefits under KRS 161.611 or 161.663, survivorship benefits under KRS 161.520, life insurance benefits under KRS 161.555 or any other benefit available from the Kentucky Teachers' Retirement System as a result of active military service, or conditions or injuries resulting from active military service, except for the accrual of service credit which shall be acknowledged by the retirement system subject to the relevant conditions set forth in KRS 161.507.

Section 2. KRS 161.720 is amended to read as follows:

(1) The term "teacher" for the purpose of KRS 161.730 to 161.810 shall mean any person for whom certification is required as a basis of employment in the public schools of the state, with the exception of the superintendent.

(2) The term "year" as applied to terms of service means actual service of not less than seven (7) school months within a school year; provided, however, that any board of education may grant a leave of absence for professional advancement *or military leave for active duty service* with full credit for service.

(3) The term "limited contract" shall mean a contract for the employment of a teacher for a term of one (1) year only or for that portion of the school year that remains at the time of employment.

(4) The term "continuing service contract" shall mean a contract for the employment of a teacher which shall remain in full force and effect until the teacher resigns or retires, or until it is terminated or suspended as provided in KRS 161.790 and 161.800.

(5) The term "continuing status" means employment of a teacher under a continuing contract.

(6) The term "standard" or "college" certificate for the purpose of KRS 161.730 to 161.810 shall mean any certificate issued upon the basis of graduation from a standard four (4) year college or completion of a local district alternative certification training program.

(7) The term "superintendent" for the purpose of KRS 161.765 shall mean the school officer appointed by a board of education under the authority of KRS 160.350 or any person authorized by law to perform the duties of that officer.

(8) The term "administrator" for the purpose of KRS 161.765 shall mean a certified employee, below the rank of superintendent, who devotes the majority of his employed time to service as a principal, assistant principal, supervisor, coordinator, director, assistant director, administrative assistant, finance officer, pupil personnel worker, guidance counselor, school psychologist, or school business administrator. The term "administrator" shall also include those assistant, associate, or deputy superintendents who do not fall within the definition of "superintendent" as set forth in subsection (7) of this section.

(9) The terms "demote" or "demotion" for the purpose of KRS 161.765 shall mean a reduction in rank from one position on the school district salary schedule to a different position on that schedule for which a lower salary is paid. The terms shall not include lateral transfers to positions of similar rank and pay or minor alterations in pay increments required by the salary schedule.

Section 3. KRS 161.740 is amended to read as follows:

(1) Teachers eligible for continuing service status in any school district shall be those teachers who meet qualifications listed in this section:

  (a) Hold a standard or college certificate as defined in KRS 161.720 or meet the certification standards for vocational education teachers established by the Education Professional Standards Board.

  (b) When a currently employed teacher is reemployed by the superintendent after teaching four (4) consecutive years in the same district, or after teaching four (4) years which shall fall within a period not to exceed six (6) years in the same district, the year of present employment included, the superintendent shall issue a written continuing contract if the teacher assumes his duties, and the superintendent shall notify the board of the action taken. *A limited status employee on approved military leave shall be awarded service credit for each year of military service or each year of combined military and school service within a school year toward continuing contract status.* Each day served in the General Assembly by a board of education employee during a regular or extraordinary session shall be included in the computation of a year as defined in KRS 161.720(2).

  (c) When a teacher has attained continuing contract status in one district and becomes employed in another district, the teacher shall retain that status. However, a district may require a one (1) year probationary period of service in that district before granting that status. For purposes of this subsection, the continuing contract of a teacher shall not be terminated when the teacher leaves employment, all provisions of KRS 161.720 to 161.810 to the contrary notwithstanding, and the continuing service contract shall be transferred to the next school district, under conditions set forth in this section, for a period of up to seven (7) months from the time employment in the first school district has terminated. Nothing contained herein shall be construed to give a teacher a right to reemployment in the first school district during the seven (7) month period following termination.

(d) Service credit toward a continuing contract shall begin only when a teacher is properly certified as defined in KRS 161.720(6) or, in the case of a vocational education teacher, when the required certification standards established by the Education Professional Standards Board have been met.

(2) Vocational education teachers fulfilling the requirements in subsection (1) of this section as of July 15, 1982, shall be eligible for continuing service status.

(3) ***Whether employed under a limited contract or continuing service contract status,*** any teacher or superintendent who has been or may be hereafter inducted into the Armed Forces of this country, shall at the expiration of service be reemployed or reinstated in a comparable position as of the beginning of the next school year, provided application is made at least thirty (30) days before the opening of school, unless physically or mentally incapacitated according to medical notations on official discharge papers. Vacancies created by military leaves shall be filled by teachers or superintendents employed by the board of education under a limited contract of one (1) year or less.

HJR 142,

A JOINT RESOLUTION designating the Millersburg Military Institute as "The Military School of Kentucky."

WHEREAS, Millersburg Military Institute, founded in 1893, is the only surviving military college-preparatory school in Kentucky; and

WHEREAS, it has served the Commonwealth and our nation over the past 110 years with honor and distinction; and

WHEREAS, Millersburg Military Institute adheres to a tradition of excellence by providing every cadet with an academic and athletic experience while instilling the values of character and leadership so that each graduate will take his place as a citizen leader of tomorrow; and

WHEREAS, the academic experience is the primary focus of this historic institution which bench marks with the top colleges and universities in the United States to ensure that its graduates are prepared for the academic challenges of college; and

WHEREAS, preparing cadets for success at four year colleges and universities is the main mission of the institute's highly qualified faculty; and

WHEREAS, Millersburg Military Institute has, through the grace of God, developed the character of thousands of youth and assisted them in attaining positions of responsibility in communities throughout the world; and

WHEREAS, Millersburg Military Institute has been a bastion of patriotism, leadership, and Christian development through the honor code which demands the highest standards of honorable living. "A Cadet Will Not Lie, Cheat, or Steal" is at the heart of the Millersburg Military Institute philosophy; and

WHEREAS, Millersburg Military Institute has excelled on the playing fields of Kentucky in pursuit of both physical development and good sportsmanship, winning State Championships in basketball in 1927 and Track and Field in 1966; and

WHEREAS, Millersburg Military Institute has played its role in war and peace since 1893 by providing hundreds of valiant soldiers, sailors, airmen, and marines to serve our nation with honor and distinction; and

WHEREAS, the mission of Millersburg Military Institute is established in its motto, "Est Nulla Via Invia Virute" (There is No Way Except The Way of Virtue) and is based on duty, honor, and country; and

WHEREAS, many alumni have embarked on stellar military, business, and civic leadership careers; and

WHEREAS, the Commonwealth of Kentucky is proud of the rich legacy of Millersburg Military Institute and recognizes its contributions to education in Kentucky;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Millersburg Military Institute is designated as "The Military School of Kentucky."

Section 2. The Legislative Research Commission is directed to send a copy of this Resolution to Millersburg Military Academy, Post Office Box 278, 1122 Main Street, Millersburg, Kentucky, 40348.

HR 155, A RESOLUTION urging the United States Congress to amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

WHEREAS, the Government pension offset reduces public employees' Social Security spousal or survival benefits by up to two-thirds of their public pension; and

WHEREAS, the windfall elimination provision greatly reduces the earned Social Security benefits of an individual who also receives a public pension from a job not covered by Social Security; and

WHEREAS, the Government pension offset and windfall elimination provisions have inequitable effects on many teachers, firefighters, police, postal workers, and others who have struggled their entire working careers to supplement family budgets and retirement savings with part-time and summer jobs where they paid into Social Security; and

WHEREAS, the National Education Association estimates that 300,000 individuals are losing an average of $3,600 a year due to the pension offset provision; and

WHEREAS, the windfall elimination impacts the teaching profession as people are less likely to leave other careers in which they earn Social Security benefits to become educators; and

WHEREAS, the Government pension offset and windfall elimination provisions have the severest effect on widowed lower-income women who have worked hard for years and can least afford reduced benefits; and

WHEREAS, the amounts lost due to such provisions can make the difference between self-sufficiency and poverty; and

WHEREAS, Kentucky is one of the 15 states most impacted by these provisions; and

WHEREAS, there have been several pieces of legislation concerning this matter introduced in the 108th Congress;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body urges the United States Congress to adopt current legislation that would amend title II of the Social Security Act to repeal the Government pension offset and windfall elimination provisions.

Section 2. The clerk of the House of Representatives is directed to transmit a copy of this Resolution to the President of the United States and the members of the Kentucky Congressional Delegation.

The Committee on Local Government reported **HB 147, HB 373,** with Committee Substitute and Committee Amendment attached thereto, **HB 485,** and **HB 510** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 147, AN ACT relating to building inspectors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198B.090 is amended to read as follows:

(1) On or before July 1, 1983, the department shall create and administer a certification program with sufficient testing procedures to certify the following professional classifications:

(a) Building inspector;

(b) Plans and specifications inspector; and

(c) Plumbing inspector.

(2) The testing procedures shall be sufficient to reflect the ability of the person applying for certification to inspect in accordance with those local, state, and federal building codes, fire codes, plumbing codes, or health and safety codes, that are applicable to the inspection duties for which he requests certification.

(3) The department shall conduct or sponsor preentry and in-service education and training programs on the technical, legal, and administrative aspects of building code administration and enforcement. For this purpose it may cooperate and contract with educational institutions, area development districts, local, regional, state or national building officials' organizations, and any other appropriate organization.

(4) On or before July 1, 1983, the department shall create and administer an educational program designed to prepare building officials, code enforcement officers and other persons interested in obtaining from the department a certification as a building inspector, plans and specifications inspector, or plumbing inspector. The program shall be so designed as to insure uniform statewide enforcement of the applicable state building and plumbing codes. ***The program shall prohibit any building inspector, public or private, from making bids for the correction of any code infractions discovered by the inspector.*** Training material coverage shall be adequate to prepare the participants with a working knowledge of construction design, specification terms, and the state building codes applicable to the particular field in which the applicant requests certification.

(5) Plumbing inspectors who are in compliance with KRS 318.090 as state inspectors and KRS 318.140 as city-county inspectors, shall be considered in accordance with subsections (1)(c) and (2) of this section and shall not be required to be retested by the Department of Housing prior to consideration for certification as a plumbing inspector. The Department of Housing shall review the plumbing inspector's qualifications and credentials for compliance with KRS 318.090 or 318.140 prior to issuing a certification to the inspector's certificate applicant.

(6) Attendance at the training sessions shall not be mandatory prior to testing for certification if the applicant's previous education or experience qualifies the applicant to obtain a passing score on the required certification test.

(7) Training sessions shall be held as frequently as is felt necessary by the commissioner to adequately provide for local and state building inspection needs.

(8) The department's plans and specifications review staff and the field inspection staff shall attend the training and become certified in accordance with the provisions of this section.

(9) All building inspectors, plans and specification inspectors, and plumbing inspectors shall be certified or enrolled and actively pursuing department certification by October 1, 1983, or within ninety (90) days after employment as an inspector, whichever comes later.

(10) The board shall establish a schedule of fees to cover the cost of the education, testing, and certification programs to be paid by the applicants for certification. The fees shall not exceed the actual cost of the services performed by the department to administer the programs listed in this section.

(11) The department may reimburse building officials, code enforcement officers and other employees of the state and its subdivisions for related expenses incurred by them for attendance at in-service training programs approved by the department.

HB 373, AN ACT relating to the taxation of abandoned urban property by cities of the second class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 92 IS CREATED TO READ AS FOLLOWS:

(1) Any city of the second to the sixth class which finds and declares that there exists abandoned urban property as defined in KRS 132.012(1) within the city, or which finds that there exists blighted or deteriorated property pursuant to KRS 99.705 to 99.730, may levy a separate rate of taxation on abandoned urban property pursuant to KRS 132.012(2).

(2) Prior to levying a tax upon abandoned urban property, the legislative body of a city of the second to the sixth class shall delegate to the vacant properties review commission, if established pursuant to KRS 99.710, or another department or agency of city government, the responsibility of determining which properties within the city are abandoned urban properties. A list of abandoned urban properties shall be furnished to the county property valuation administrator prior to the date fixed for the annual assessment of real property within the county. If a property classified as abandoned urban property is repaired, rehabilitated, or otherwise returned to productive use, the owner shall notify the city which shall, if it finds the property is no longer abandoned urban property, notify the property valuation administrator to strike the property from the list of abandoned urban properties.

Section 2. KRS 132.012 is amended to read as follows:

As used in this section and in ***Section 1 of this Act and*** KRS 91.285, unless the context otherwise requires:

(1) "Abandoned urban property" means any vacant structure or vacant or unimproved lot or parcel of ground in a predominantly developed urban area which has been vacant or unimproved for a period of at least one (1) year and which:

  (a) Because it is dilapidated, unsanitary, unsafe, vermin infested, or otherwise dangerous to the safety of persons, it is unfit for its intended use; or

  (b) By reason of neglect or lack of maintenance has become a place for the accumulation of trash and debris, or has become infested with rodents or other vermin; or

  (c) Has been tax delinquent for a period of at least three (3) years.

(2) For purposes of local taxation in cities of the first ***to sixth*** class or consolidated local governments, there shall be a classification of real property known as abandoned urban property. The legislative body of a city of the first ***to sixth*** class or consolidated local government may levy a rate of taxation on abandoned urban property higher than the prevailing rate of taxation on other real property in the city or consolidated local government. The limitation upon tax rates established by KRS 132.027 shall not apply to the rate of taxation on abandoned urban property.

Section 3. KRS 99.705 is amended to read as follows:

Unless the context otherwise requires:

(1) "Blighted" or "deteriorated" property means any vacant structure or vacant or unimproved lot or parcel of ground in a predominantly built-up neighborhood:

  (a) Which because of physical condition or use is regarded as a public nuisance at common law or has been declared a public nuisance in accordance with the city, or in counties containing a city of the first ***to sixth*** class or consolidated local government, with the housing, building, plumbing, fire, or related codes;

  (b) Which because of physical condition, use, or occupancy is considered an attractive nuisance to children, including but not limited to abandoned wells, shafts, basements, excavations, and unsafe fences or structures;

  (c) Which because it is dilapidated, unsanitary, unsafe, vermin-infested, or lacking in the facilities and equipment required by the housing code of the city or county containing a city of the first ***to sixth*** class or consolidated local government, has been designated by the department responsible for enforcement of the code as unfit for human habitation;

(d) Which is a fire hazard, or is otherwise dangerous to the safety of persons or property;

(e) From which the utilities, plumbing, heating, sewerage, or other facilities have been disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use;

(f) Which by reason of neglect or lack of maintenance has become a place for accumulation of trash and debris, or a haven for rodents or other vermin;

(g) Which has been tax delinquent for a period of at least three (3) years; or

(h) Which has not been rehabilitated within the time constraints placed upon the owner by the appropriate code enforcement agency.

(2) "Redevelopment" means the planning or replanning, design or redesign, acquisition, clearance, development, and disposal or any combination of these, of a property in the preparation of such property for residential and related uses, as may be appropriate or necessary.

(3) "Residential and related use" shall mean residential property for sale or rental and related uses; including but not limited to park and recreation areas, neighborhood community service, and neighborhood parking lots.

(4) "Vacant property review commission" means a commission established by ordinance to review vacant properties to make a written determination of blight and deterioration.

Section 4. KRS 99.710 is amended to read as follows:

(1) If the legislative body of a consolidated local government, a city, or a county containing a city of the first ***to sixth*** class finds and declares that there exists in the consolidated local government, city, or county containing a city of the first ***to sixth*** class blighted or deteriorated properties and that there is need in the city or county for the exercise of powers, functions, and duties conferred by KRS 99.705 to 99.730, the legislative body may adopt the provisions of KRS 99.705 to 99.730 by ordinance.

(2) The ordinance adopting the provisions of KRS 99.705 to 99.730 shall also establish a vacant property review commission which shall certify properties as blighted or deteriorated to the legislative body. The ordinance shall specify the duties of, the number of members that will serve on, the requirements of membership, and the makeup of the commission. Members shall be appointed by the mayor and approved by the legislative body. No officer or employee of the consolidated local government, city, or county containing a city of the first ***to sixth*** class whose duties include enforcement of housing, building, plumbing, fire, or related codes shall be appointed to the commission.

Section 5. KRS 99.715 is amended to read as follows:

A city or county containing a city of the first ***to sixth*** class may acquire by, eminent domain pursuant to KRS Chapter 416, any property determined to be blighted or deteriorated pursuant to KRS 99.705 to 99.730, and shall have the power to hold, clear, manage, or dispose of property so acquired for residential and related use, pursuant to the provisions of KRS 99.705 to 99.730.

Section 6. KRS 99.720 is amended to read as follows:

(1) The legislative body shall not institute eminent domain proceedings pursuant to KRS 99.705 to 99.730 unless the commission has certified that the property is blighted or deteriorated. A property which has been referred to the commission by a city agency, or by an agency in a county containing a city of the first ***to sixth*** class or consolidated local government, as blighted or deteriorated may only be certified to the legislative body as blighted or deteriorated after the commission has determined:

(a) That the owner of the property or designated agent has been sent an order by the appropriate city, consolidated local government, or county agency to eliminate the conditions which are in violation of local codes or law;

(b) That the property is vacant;

(c) That the property is blighted and deteriorated;

(d) That the commission has notified the property owner or designated agent that the property has been determined to be blighted or deteriorated and the time period for correction of such condition has expired and the property owner or agent has failed to comply with the notice; and

(e) That, in counties containing a city of the first ***to sixth*** class, consolidated local governments, and cities that are within a planning unit established pursuant to KRS Chapter 100, the planning commission has determined that the reuse of the property for residential and related use is in keeping with the comprehensive plan.

(2) The findings required by subsection (1) of this section shall be in writing and included in the report to the legislative body.

(3) The commission shall notify the owner of the property or a designated agent that a determination of blight or deterioration has been made and that failure to eliminate the conditions causing the blight shall render the property subject to condemnation by the city, consolidated local government, or county under KRS 99.705 to 99.730. Notice shall be mailed to the owner or designated agent by certified mail, return receipt requested. However, if the address of the owner or a designated agent is unknown and cannot be ascertained by the commission in the exercise of reasonable diligence, copies of the notice shall be posted in a conspicuous place on the property affected. The written notice sent to the owner or his agent shall describe the conditions that render the property blighted and deteriorated, and shall demand abatement of the conditions within ninety (90) days of the receipt of such notice.

(4) An extension of the ninety (90) day time period may be granted by the commission if the owner or designated agent demonstrates that such period is insufficient to correct the conditions cited in the notice.

Section 7. KRS 99.725 is amended to read as follows:

The legislative body of the city or county containing a city of the first ***to sixth*** class may institute eminent domain proceedings pursuant to KRS Chapter 416 against any property which has been certified as blighted or deteriorated by the commission if it finds:

(1) That such property has deteriorated to such an extent as to constitute a serious and growing menace to the public health, safety and welfare;

(2) That such property is likely to continue to deteriorate unless corrected;

(3) That the continued deterioration of such property may contribute to the blighting or deterioration of the area immediately surrounding the property; and

(4) That the owner of such property has failed to correct the deterioration of the property.

Section 8. KRS 99.730 is amended to read as follows:

No officer or employee of the city or county containing a city of the first ***to sixth*** class or consolidated local government, or of the vacant property review commission, who in the course of his or her duties is required to participate in the determination of property blight or deterioration or the issuance of notices on code violations which may lead to a determination of blight or deterioration, shall acquire any interest in any property declared to be blighted or deteriorated. If any such officer or employee owns or has financial interest, direct or indirect, in any property certified to be blighted or deteriorated, he or she shall immediately disclose, in writing, such interest to the commission and to the legislative body and such disclosure shall be entered in the minutes of the commission and of the legislative body. Failure to so disclose such interest shall constitute misconduct in office. No payment shall be made to any officer or employee for any property or interest therein acquired by the city, consolidated local government, or county containing a city of the first ***to sixth*** class from such officer or employee unless the amount of such payment is fixed by court order in eminent domain proceedings, or unless payment is unanimously approved by the legislative body.

The Committee Substitute to **HB 373** is as follows:

HB 373, AN ACT relating to the taxation of abandoned urban property by cities of the second class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 92 IS CREATED TO READ AS FOLLOWS:

(1) Any city of the second to the sixth class which finds and declares that there exists abandoned urban property as defined in Section 2 of this Act within the city, or which finds that there exists blighted or deteriorated property pursuant to KRS 99.705 to 99.730, may levy a separate rate of taxation on abandoned urban property pursuant to Section 2 of this Act.

(2) Prior to levying a tax upon abandoned urban property, the legislative body of a city of the second to the sixth class shall delegate to the vacant properties review commission, if established pursuant to Section 4 of this Act, or another department or agency of city government, the responsibility of determining which properties within the city are abandoned urban properties. A list of abandoned urban properties shall be furnished to the county property valuation administrator prior to the date fixed for the annual assessment of real property within the county. If a property classified as abandoned urban property is repaired, rehabilitated, or otherwise returned to productive use, the owner shall notify the city which shall, if it finds the property is no longer abandoned urban property, notify the property valuation administrator to strike the property from the list of abandoned urban properties.

Section 2. KRS 132.012 is amended to read as follows:

As used in this section and in ***Section 1 of this Act and*** KRS 91.285, unless the context otherwise requires:

(1) "Abandoned urban property" means any vacant structure or vacant or unimproved lot or parcel of ground in a predominantly developed urban area which has been vacant or unimproved for a period of at least one (1) year and which:

(a) Because it is dilapidated, unsanitary, unsafe, vermin infested, or otherwise dangerous to the safety of persons, it is unfit for its intended use; or

(b) By reason of neglect or lack of maintenance has become a place for the accumulation of trash and debris, or has become infested with rodents or other vermin; or

(c) Has been tax delinquent for a period of at least three (3) years.

(2) For purposes of local taxation in cities of ***any***[~~the first~~] class or consolidated local governments, there shall be a classification of real property known as abandoned urban property. The legislative body of a city of ***any***[~~the first~~] class***, county containing a city of the first class,*** or consolidated local government may levy a rate of taxation on abandoned urban property higher than the prevailing rate of taxation on other real property in the city***, county containing a city of the first class,*** or consolidated local government. The limitation upon tax rates established by KRS 132.027 shall not apply to

the rate of taxation on abandoned urban property.

Section 3. KRS 99.705 is amended to read as follows:

Unless the context otherwise requires:

(1) "Blighted" or "deteriorated" property means any vacant structure or vacant or unimproved lot or parcel of ground in a predominantly built-up neighborhood:

  (a) Which because of physical condition or use is regarded as a public nuisance at common law or has been declared a public nuisance in accordance with ***a***[~~the~~] city ***of any class***, or in counties containing a city of the first class or consolidated local government, with the housing, building, plumbing, fire, or related codes;

  (b) Which because of physical condition, use, or occupancy is considered an attractive nuisance to children, including but not limited to abandoned wells, shafts, basements, excavations, and unsafe fences or structures;

  (c) Which because it is dilapidated, unsanitary, unsafe, vermin-infested, or lacking in the facilities and equipment required by the housing code of ***a***[~~the~~] city or county containing a city of the first class or consolidated local government, has been designated by the department responsible for enforcement of the code as unfit for human habitation;

  (d) Which is a fire hazard, or is otherwise dangerous to the safety of persons or property;

  (e) From which the utilities, plumbing, heating, sewerage, or other facilities have been disconnected, destroyed, removed, or rendered ineffective so that the property is unfit for its intended use;

  (f) Which by reason of neglect or lack of maintenance has become a place for accumulation of trash and debris, or a haven for rodents or other vermin;

  (g) Which has been tax delinquent for a period of at least three (3) years; or

  (h) Which has not been rehabilitated within the time constraints placed upon the owner by the appropriate code enforcement agency.

(2) "Redevelopment" means the planning or replanning, design or redesign, acquisition, clearance, development, and disposal or any combination of these, of a property in the preparation of such property for residential and related uses, as may be appropriate or necessary.

(3) "Residential and related use" shall mean residential property for sale or rental and related uses; including but not limited to park and recreation areas, neighborhood community service, and neighborhood parking lots.

(4) "Vacant property review commission" means a commission established by ordinance to review vacant properties to make a written determination of blight and deterioration.

Section 4. KRS 99.710 is amended to read as follows:

(1) If the legislative body of a consolidated local government, a city ***of any class***, or a county containing a city of the first class finds and declares that there exists in the consolidated local government, city ***of any class***, or county containing a city of the first class blighted or deteriorated properties and that there is need in the city or county for the exercise of powers, functions, and duties conferred by KRS 99.705 to 99.730, the legislative body may adopt the provisions of KRS 99.705 to 99.730 by ordinance.

(2) The ordinance adopting the provisions of KRS 99.705 to 99.730 shall also establish a vacant property review commission which shall certify properties as blighted or deteriorated to the legislative body. The ordinance shall specify the duties of, the number of members that will serve on, the requirements of membership, and the makeup of the commission. Members shall be appointed by the mayor and approved by the legislative body. No officer or employee of the consolidated local government, city ***of any class***, or county containing a city of the first class whose duties include enforcement of housing, building, plumbing, fire, or related codes shall be appointed to the commission.

Section 5. KRS 99.715 is amended to read as follows:

A city ***of any class,***[~~or~~] county containing a city of the first class***, or consolidated local government*** may acquire by, eminent domain pursuant to KRS Chapter 416, any property determined to be blighted or deteriorated pursuant to KRS 99.705 to 99.730, and shall have the power to hold, clear, manage, or dispose of property so acquired for residential and related use, pursuant to the provisions of KRS 99.705 to 99.730.

Section 6. KRS 99.720 is amended to read as follows:

(1) The legislative body shall not institute eminent domain proceedings pursuant to KRS 99.705 to 99.730 unless the commission has certified that the property is blighted or deteriorated. A property which has been referred to the commission by a city agency ***of any class of city***, or by an agency in a county containing a city of the first class or consolidated local government, as blighted or deteriorated may only be certified to the legislative body as blighted or deteriorated after the commission has determined:

  (a) That the owner of the property or designated agent has been sent an order by the appropriate city, consolidated local government, or county agency to eliminate the conditions which are in violation of local codes or law;

  (b) That the property is vacant;

(c) That the property is blighted and deteriorated;

(d) That the commission has notified the property owner or designated agent that the property has been determined to be blighted or deteriorated and the time period for correction of such condition has expired and the property owner or agent has failed to comply with the notice; and

(e) That, in ***cities of any class,*** counties containing a city of the first class, ***or*** consolidated local governments[~~, and cities~~] that are within a planning unit established pursuant to KRS Chapter 100, the planning commission has determined that the reuse of the property for residential and related use is in keeping with the comprehensive plan.

(2) The findings required by subsection (1) of this section shall be in writing and included in the report to the legislative body.

(3) The commission shall notify the owner of the property or a designated agent that a determination of blight or deterioration has been made and that failure to eliminate the conditions causing the blight shall render the property subject to condemnation by the city, consolidated local government, or county under KRS 99.705 to 99.730. Notice shall be mailed to the owner or designated agent by certified mail, return receipt requested. However, if the address of the owner or a designated agent is unknown and cannot be ascertained by the commission in the exercise of reasonable diligence, copies of the notice shall be posted in a conspicuous place on the property affected. The written notice sent to the owner or his agent shall describe the conditions that render the property blighted and deteriorated, and shall demand abatement of the conditions within ninety (90) days of the receipt of such notice.

(4) An extension of the ninety (90) day time period may be granted by the commission if the owner or designated agent demonstrates that such period is insufficient to correct the conditions cited in the notice.

Section 7. KRS 99.725 is amended to read as follows:

The legislative body of the city ***of any class,***[~~or~~] county containing a city of the first class***, or consolidated local government*** may institute eminent domain proceedings pursuant to KRS Chapter 416 against any property which has been certified as blighted or deteriorated by the commission if it finds:

(1) That such property has deteriorated to such an extent as to constitute a serious and growing menace to the public health, safety and welfare;

(2) That such property is likely to continue to deteriorate unless corrected;

(3) That the continued deterioration of such property may contribute to the blighting or deterioration of the area immediately surrounding the property; and

(4) That the owner of such property has failed to correct the deterioration of the property.

Section 8. KRS 99.730 is amended to read as follows:

No officer or employee of ***a***[~~the~~] city ***of any class,***[~~or~~] county containing a city of the first class***,*** or consolidated local government, or of the vacant property review commission, who in the course of his or her duties is required to participate in the determination of property blight or deterioration or the issuance of notices on code violations which may lead to a determination of blight or deterioration, shall acquire any interest in any property declared to be blighted or deteriorated. If any such officer or employee owns or has financial interest, direct or indirect, in any property certified to be blighted or deteriorated, he or she shall immediately disclose, in writing, such interest to the commission and to the legislative body and such disclosure shall be entered in the minutes of the commission and of the legislative body. Failure to so disclose such interest shall constitute misconduct in office. No payment shall be made to any officer or employee for any property or interest therein acquired by the city ***of any class,*** consolidated local government, or county containing a city of the first class from such officer or employee unless the amount of such payment is fixed by court order in eminent domain proceedings, or unless payment is unanimously approved by the legislative body.

The Committee Amendment No. 1 Title to **HB 373** is as follows:

HB 373, Amend the title to read as follows:

"AN ACT relating to the taxation of abandoned urban property.".

HB 485, AN ACT relating to the Uniform State Building Code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198B.060 is amended to read as follows:

(1) Each local government shall employ a building official or inspector and other code enforcement personnel as necessary, or shall contract for inspection and code enforcement services in accordance with subsections (8) and (11) of this section to enforce the Uniform State Building Code within the boundaries of its jurisdiction, except that permits, inspections, and certificates of occupancy shall not be mandatory for single-family residences unless a local government passes an ordinance requiring inspections of single-family residences.

(2) Local governments shall be responsible for the examination and approval or disapproval of plans and specifications for churches having a capacity of four hundred (400) or less persons, and six thousand (6,000) or less square feet of total floor

area, and buildings of no more than three (3) stories in height, exclusive of attic and basement, which do not contain more than twenty thousand (20,000) square feet of floor area, and are not intended for educational, institutional, or high hazard occupancy; or assembly, business, or industrial occupancy in excess of one hundred (100) persons, except churches as stated in this subsection, or for use as a frozen food locker plant as defined in KRS 221.010. Local governments shall be responsible for the issuance and revocation of building permits, licenses, certificates, and similar documents which cover activities within their area of responsibility, and the inspection of all buildings pursuant to the provisions of this chapter and the Uniform State Building Code. Each local government issuing a building or demolition permit or an initial certificate of occupancy on a new structure shall send a copy of the permit or certificate to the commissioner for his use in maintaining an accurate housing inventory for Kentucky.

(3) Urban-county governments may determine service districts within their boundaries within which farm dwellings and other farm buildings, not used in the business of retail trade or as a place of regular employment for ten (10) or more people, shall be exempt from the requirements of the Uniform State Building Code. The determination may be reviewed and altered by the board.

(4) With the exception of single-family dwellings, the department shall be responsible for the examination and approval or disapproval of plans and specifications for all buildings which are not the responsibility of local governments. The department may issue and revoke permits, licenses, certificates, and similar documents within its area of responsibility, and shall have concurrent jurisdiction with local governments for the inspection of all buildings pursuant to the provisions of this chapter and the Uniform State Building Code. If the commissioner determines that the local jurisdiction is not adequately performing any portion of its program, he may recommend to the board that the department preempt that portion of a local program, except that the commissioner shall not preempt or assert jurisdiction for the enforcement of the code on single-family dwellings. The commissioner shall explain his reasons for preemption in writing and provide a copy to the board and the local jurisdiction. The local jurisdiction may appeal the recommended preemption directly to the board, and the board shall review the appeal according to the procedures found in subsections (8) to (10) of KRS 198B.070. No preemption by the department shall take place until the final decision of the board. If the department preempts any portion of a local program, it shall collect the fees applicable to that portion of the program.

(5) Any local government may petition the commissioner requesting that additional plan review functions be allocated to that local government. The petition shall include evidence of the local government's capability to perform additional plan review functions. The commissioner, after review of the petition and supporting evidence, may grant or deny to the local government any part of a request for additional responsibility. If the commissioner denies any part of a petition, he shall explain his reasons for denial in writing, and provide a copy to the board and the local government. A local government may appeal the denial directly to the board, and the board shall review the appeal according to the procedures found in subsections (8) to (10) of KRS 198B.070. If the local government is granted additional responsibility by the commissioner or the board, the department shall hold concurrent jurisdiction over the additional responsibility, but the local government shall collect any fees for functions it performs pursuant to the additional responsibility.

(6) Any local government may also petition the commissioner requesting that plans and specifications inspection, building inspection, and approval responsibility relating to the application of local plumbing permits for local installations be allocated to the local government. The petition shall~~[not]~~ be granted unless~~[the local government has demonstrated to]~~ the commissioner ***determines*** that ***the local government cannot***~~[it can]~~ perform these functions in accordance with the provisions of KRS 198B.050 to 198B.090.

(7) The commissioner shall expedite the review of plans and specifications by assigning responsibilities and coordinating review activities among the department's various functional offices so as to prevent unnecessary duplication in the review of plans and specifications.

(8) No building shall be constructed in this state until a local building official and an official representing the department, if the department has jurisdiction, issue a permit for the construction. Nothing in this subsection shall require a single-family dwelling to be permitted or inspected unless a local government has established a building inspection program as set out in this section.

(9) The local building official or the representative of the department shall issue a permit if the proposed building satisfies the requirements of the Uniform State Building Code and if the party desiring to construct the building has complied with all other legal requirements concerning the location and construction of the building. The applicant for a building permit, by the act of applying for the permit, shall be deemed to have consented to inspection by the local government or the department, of the building during construction and upon the completion of construction for the purpose of determining that the building is constructed in compliance with the Uniform State Building Code.

(10) (a) No permit for building, construction, reconstruction, renovation, demolition, or maintenance or for any activity related to building, construction, reconstruction, renovation, demolition, or maintenance shall be issued by any building department or by any political subdivision of the Commonwealth of Kentucky to any person seeking the permit unless the person shall assure, by affidavit, that all contractors and subcontractors employed, or that will be employed, on activity covered by the permit shall be in compliance with Kentucky requirements for workers' compensation insurance according to KRS Chapter 342 and unemployment insurance according to KRS Chapter 341.

(b) Any person who fails to comply with the assurances required under paragraph (a) of this subsection upon such finding by a court of competent jurisdiction, shall be fined an amount not to exceed four thousand dollars ($4,000) or an amount equal to the sum of all uninsured and unsatisfied claims brought under the provisions of KRS Chapter 342 and unemployment insurance claims for which no wages were reported as required by KRS Chapter 341, whichever is greater.

(c) The penalty imposed in paragraph (b) of this subsection shall be enforced by the county attorney for the county in which the violation occurred.

(11) A certified electrical inspector shall be employed by, or contracted for, or contracted with a local government having responsibility over buildings as set out in this section as part of its building inspection program. After a certified electrical inspector has been provided for by the local government or the department, no utility shall initiate permanent electrical service to any new building, or any building which has been moved, until a final certificate of approval has been issued by a certified electrical inspector. Unless the department shall notify the utility in writing as to which buildings are subject to departmental approval, it shall be presumed by the utility that the building is subject to the jurisdiction of the local government. However, nothing in this section shall prohibit the supply or use of necessary electrical services during the construction and testing process.

(12) This section shall apply to industrialized building systems, but destructive disassembly of industrialized building systems which carry a seal of approval pursuant to a manufactured building law in the state in which they were manufactured, which seal of approval is accepted by the Board of Housing, Buildings and Construction, shall not be performed in order to conduct the tests or inspections.

(13) No building on which construction was begun nor any industrialized building system on which site preparation and assembly were begun after the Uniform State Building Code became effective shall be occupied until the local building official or a representative of the department issues a certificate of occupancy certifying that the building was constructed in conformance with the standards of the Uniform State Building Code, or assembled or installed in conformance with applicable instructions. Nothing in this subsection shall be construed to require a certificate of occupancy to be issued for any single-family dwelling unless a local government has established jurisdiction for the enforcement of the Uniform State Building Code under this section.

(14) A local government may associate with other local governments, and may seek the technical assistance of other agencies or area development districts in order to provide for the local enforcement of the Uniform State Building Code.

(15) Local governments or associations of local governments may contract with a person, firm, or company to perform the plans and specifications inspection or building inspection functions required of the local government by the provisions of this section if:

(a) The person performing the plans and specifications inspection is certified by the department as having successfully completed the test requirements provided by KRS 198B.090 to practice as a certified plans and specifications inspector;

(b) The person performing the building inspection is certified by the department as having successfully completed the test requirements provided in KRS 198B.090 to practice as a certified building inspector;

(c) The person, firm, or company does not have a conflict of interest between its plan review or inspection functions and any other employment or business activities;

(d) The person performing the plumbing inspection is certified by the department as having successfully completed the requirements provided in KRS 318.140 to practice as a certified plumbing inspector; and

(e) The person, firm, or company does not have a conflict of interest between its plan review or inspection functions and any other employment or business activities.

(16) If the department has reason to believe that an inspector is not enforcing, or is improperly enforcing, the provisions of the Kentucky building codes, it shall conduct an informal hearing to review the inspector's procedures and return in written form the required corrections resulting from the hearing to the inspector, or may take action to suspend or revoke the inspector's certificate.

(17) If, after written notification from the department to the inspector of any corrections required, the inspector fails to comply within sixty (60) days, the department shall suspend the inspector's certification until the inspector complies. Any action to suspend or revoke an inspector's certificate may be appealed to the board, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(18) Each local government and the department may establish a schedule of fees for the functions performed under the provisions of this chapter. The fees shall be designed to fully cover the cost of the service performed but shall not exceed the cost of the service performed. Fees payable to the department shall be paid into the State Treasury and credited to a trust and agency fund to be used by the department in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the Commonwealth.

HB 510, AN ACT relating to delinquent taxes in a newly-formed consolidated local government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67C.123 is amended to read as follows:

(1) The tax structure, tax rates, and level of services in effect in the city of the first class and its county upon the adoption of a consolidated local government shall remain in effect after the adoption of the consolidated local government and shall remain the same until changed by the newly elected consolidated local government council.

(2) ***All delinquent taxes of the former city of a first class in a consolidated local government shall be filed with the county clerk and shall be known as certificates of delinquency and shall be governed by the procedures set out in KRS Chapter 134 except that the certificate of delinquency on tax bills of the former city of the first class do not have to be advertised as set out in KRS 134.440 and may be paid or purchased directly from the clerk under the provisions of KRS 134.480 without a sheriff's sale pursuant to KRS 134.450.***

(3) Notwithstanding the provisions of KRS 67C.115(2), all contracts, bonds, franchises and other obligations of the city of the first class and of the county in existence on the effective date of a consolidated local government shall continue in force and effect as obligations of the consolidated local government and the consolidated local government shall succeed to all rights and entitlements thereunder. All conflicts in the provisions of the contracts, bonds, franchises, or other obligations shall be resolved in a manner that does not impair the rights of any parties thereto.

Section 2. KRS 67C.115 is amended to read as follows:

(1) Upon the successful passage of the question to consolidate a city of the first class and its county, all ordinances and resolutions of the previously existing city of the first class and all ordinances and resolutions of the county shall become effective ordinances and resolutions of the consolidated local government until repealed, modified, or amended in accordance with the following order of precedence:

(a) If a city ordinance conflicts with a county ordinance, the county ordinance shall prevail and shall become effective countywide; and

(b) If a city ordinance addresses a subject matter not addressed by a county ordinance, the city ordinance shall become effective countywide; and

(c) If a county ordinance addresses a subject matter not addressed by a city ordinance, the county ordinance shall become effective countywide.

Notwithstanding paragraph (a) of this subsection and in the event a uniform land development code has not been jointly adopted by the city and county prior to the effective date of a consolidated local government, the historic preservation and landmarks ordinances, and the zoning regulations of the city adopted pursuant to KRS Chapter 100, shall prevail and become effective countywide.

(2) Ordinances and resolutions of either the city of the first class or its county in existence on the effective date of a local government consolidation which conflict with other provisions of this chapter shall be void. Except as provided in KRS 67C.123*(3)*[~~(2)~~], any ordinance, resolution, or order in effect in a city of the first class or its county on the date a consolidated local government takes effect shall expire five (5) years from that date unless amended or reenacted by the consolidated local government.

(3) All ordinances of the city and county creating agencies and boards and interlocal agreements shall survive and be deemed reenacted by the council. All members may serve the balance of the terms to which they were appointed and until their successors are appointed and duly qualified according to law.

(4) For purposes of this section, a conflict shall be deemed to exist between ordinances or resolutions, or the provisions of this chapter, where any rights, remedies, entitlements, or the enforcement thereof cannot reasonably be reconciled.

(5) The county attorney shall serve as the legal advisor and representative to the consolidated local government and except for those duties pertaining to fiscal court set forth in KRS 69.210, the county attorney shall retain and exercise all other duties, powers, and rights delegated to that office by law.

(6) Wherever the words "county judge" or "county judge/executive" appear in any resolution or ordinance in existence in a city of the first class or in a county containing a city of the first class as of the effective date of the establishment of a consolidated local government, they shall be deemed to mean the mayor of the consolidated local government.

The Committee on Appropriations and Revenue reported **HB 297**, with Committee Amendment attached thereto, **HB 323**, with Committee Amendment attached thereto, **HB 489, HB 498,** and **HB 518**, with Committee Substitute attached thereto with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 297, AN ACT relating to contracts for the payment of taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 371 IS CREATED TO READ AS FOLLOWS:

(1) If a contract requires one party to reimburse another party for taxes levied under Subchapter A of Chapter 32 of the Internal Revenue Code, the party making the reimbursement, at its option, shall not be required to reimburse the other party more than one (1) business day before the other party is required to remit the taxes to the Internal Revenue Service.

(2) If a party chooses to exercise its option under subsection (1) of this section, and provision is not already provided in the contract, the party shall notify the other party in writing of its intention. The option may not be exercised until at least thirty (30) days after the written notification or the beginning of the next federal tax quarter, whichever is later.

(3) The party to be reimbursed under subsection (1) of this section may require security from the reimbursing party for the payment of the taxes in proportion to the amount the taxes represent compared to the security required on the contract as a whole. The party to be reimbursed shall not change other payment terms of the contract due to the timing of the tax reimbursement, but may require the taxes to be reimbursed by electronic transfer of funds.

Section 2. This Act applies to all continuing contracts now in effect that have no expiration date and all contracts entered into or renewed after the effective date of this Act.

The Committee Amendment No. 1 to **HB 297** is as follows:

HB 297, On page 1, line 4, before "***Subchapter***" insert "***Part III of***".

HB 323, AN ACT relating to critical access hospitals and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216.380 is amended to read as follows:

(1) The licensure category of critical access hospital is hereby created for existing licensed acute-care hospitals which qualify under this section for that status.

(2) It shall be unlawful to operate or maintain a critical access hospital without first obtaining a license from the Cabinet for Health Services. An acute-care hospital converting to a critical access hospital shall not require a certificate of need. A certificate of need shall not be required for services provided on a contractual basis in a critical access hospital. ***A certificate of need shall not be required for an existing critical access hospital to increase its acute-care bed capacity to twenty-five (25) beds.***

(3) Except as provided in subsection (4) of this section, only a hospital licensed as a general acute-care hospital may be relicensed as a critical access hospital if:

  (a) The hospital is located in a county in a rural area that is:

    1. Located more than a thirty-five (35) mile drive, or, where the terrain is mountainous or only secondary roads are available, located more than a fifteen (15) mile drive, from another ***acute-care*** hospital or ***critical access hospital***[~~other health facility~~]; or

    2. Certified by the secretary as a necessary provider of health care services to area residents;

  (b) For the purposes of paragraph (a) of this subsection, a hospital shall be considered to be located in a rural area if the hospital is not in a county which is part of a standard metropolitan statistical area, the hospital is located in a rural census tract of a metropolitan statistical area as determined under the most recent modification of the Goldsmith Modification, or is designated by the state as a rural provider. The secretary shall designate a hospital as a rural provider if the hospital is not located in a county which has the largest county population of a standard metropolitan statistical area;

  (c) Except as provided in paragraph (d) of this subsection, the hospital provides not more than ***twenty-five (25)***[~~fifteen (15)~~] acute care inpatient beds for providing ***acute*** inpatient care for a period that does not exceed, as determined on an annual, average basis, ninety-six (96) hours;

  (d) If the hospital is operating swing beds under which the hospital's inpatient hospital facilities are used for the provision of extended care services, the hospital may be designated as a critical access hospital so long as the total number of beds that may be used at any time for furnishing of either extended care services or acute inpatient services does not exceed twenty-five (25) beds [~~and the number of beds used at any time for acute inpatient services does not exceed fifteen (15) beds~~]. For the purposes of this section, any bed of a unit of the hospital that is licensed as a nursing facility at the time the hospital applies to the state for designation as a critical care access hospital shall not be counted.

(4) The secretary for health services may designate a facility as a critical access hospital if the facility:

  (a) Was a hospital that ceased operations on or after ten (10) years prior to April 21, 2000; or

  (b) Was a hospital that was converted to a licensed primary care center, rural health clinic, ambulatory health center, or other type of licensed health clinic or health center and, as of the effective date of that conversion, meets the criteria for licensure as a critical access hospital under this subsection or subsection (3) of this section.

(5) A critical access hospital shall provide the following services:

  (a) Twenty-four (24) hour emergency-room care that the secretary determines is necessary for insuring access to emergency care services in each area served by a critical access hospital; and

(b) Basic laboratory, radiologic, pharmacy, and dietary services. These services may be provided on a part-time, off-site contractual basis.

(6) A critical access hospital may provide the following services:

(a) Swing beds or a distinct unit of the hospital which is a nursing facility in accordance with KRS Chapter 216B and subject to approval under certificate of need;

(b) Surgery;

(c) Normal obstetrics;

(d) Primary care;

(e) Adult day health care;

(f) Respite care;

(g) Rehabilitative and therapeutic services including, but not limited to, physical therapy, respiratory therapy, occupational therapy, speech pathology, and audiology, which may be provided on an off-site contractual basis;

(h) Ambulatory care;

(i) Home health services which may be established upon obtaining a certificate of need; and

(j) Mobile diagnostic services with equipment not exceeding the major medical equipment cost threshold pursuant to KRS Chapter 216B and for which there are no review criteria in the State Health Plan.

(7) ***In addition to the services that may be provided under subsection (6) of this section, a critical access hospital may establish the following units in accordance with applicable Medicare regulations and subject to certificate of need approval:***

(a) A psychiatric unit that is a distinct part of the hospital, with a maximum of ten (10) beds; and

(b) A rehabilitation unit that is a distinct part of the hospital, with a maximum of ten (10) beds notwithstanding any other bed limit contained in law or regulation.

(8) Psychiatric unit and rehabilitation unit beds operated under subsection (7) of this section shall not be counted in determining the number of beds or the average length of stay of a critical access hospital for purposes of applying the bed and average length of stay limitations under paragraph (c) of subsection (3) of this section.

(9) The following staffing plan shall apply to a critical access hospital:

(a) The hospital shall meet staffing requirements as would apply under section 1861(e) of Title XVIII of the Federal Social Security Act to a hospital located in a rural area except that:

1. The hospital need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the hospital shall be open and fully staffed, except insofar as the facility is required to make available emergency services and nursing services available on a twenty-four (24) hour basis; and

2. The hospital need not otherwise staff the facility except when an inpatient is present; and

(b) Physician assistants and nurse practitioners may provide inpatient care within the limits of their statutory scope of practice and with oversight by a physician who is not required to be on-site at the hospital.

(10)[~~(8)~~] A critical access hospital shall have a quality assessment and performance improvement program and procedures for review of utilization of services.

(11)[~~(9)~~] A critical access hospital shall have written contracts assuring the following linkages:

(a) Secondary and tertiary hospital referral services which shall provide for the transfer of a patient to the appropriate level of care and the transfer of patients to the critical access hospital for recuperative care;

(b) Ambulance services;

(c) Home health services; and

(d) Nursing facility services if not provided on-site.

(12)[~~(10)~~] If the critical access hospital is part of a rural health network, the hospital shall have the following:

(a) An agreement for patient referral and transfer, development, and use of communications systems including telemetry and electronic sharing of patient data, and emergency and nonemergency transportation; and

(b) An agreement for credentialing and quality assurance with a network hospital, peer review organization, or other appropriate and qualified entity identified in the state rural health plan.

(13)[~~(11)~~] The Cabinet for Health Services and any insurer or managed care program for Medicaid recipients that contracts with the Department for Medicaid Services for the receipt of Federal Social Security Act Title XIX funds shall provide for reimbursement of services provided to Medicaid recipients in a critical access hospital at rates that are at least equal to those established by the Federal Health Care Financing Administration for Medicare reimbursement to a critical access hospital.

(14)[~~(12)~~] The Cabinet for Health Services shall promulgate administrative regulations pursuant to KRS Chapter 13A necessary to implement this section.

Section 2. Whereas the Center for Medicare and Medicaid Services implemented a new federal law that, effective January 1, 2004, would allow critical access hospitals to increase their number of acute care beds up to 25 and to operate a separate psychiatric or rehabilitation unit, and further delay in implementing these changes in Kentucky would prevent Kentucky's critical access hospitals from being able to treat additional patients in need of hospital care during the influenza season when more people require treatment, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Amendment No. 1 to **HB 323** is as follows:

HB 323, On page 5, between lines 22 and 23, insert the following:

"Section 2. Beginning on the effective date of Section 1 of this Act through June 30, 2006, no acute care hospital shall convert to a critical access hospital unless the hospital has either a feasibility study funded through the Kentucky State Office of Rural Health or has filed a written request by February 1, 2004 with the Kentucky State Office of Rural Health requesting funding for a feasibility study to be conducted." and

Renumber subsequent sections.

HB 489, AN ACT relating to postsecondary institution debt.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

(1) The amount of debt service on bonds issued to finance construction of new facilities or to renovate existing facilities used for auxiliary enterprises or for hospitals associated with postsecondary institutions and all revenues generated by such facilities, and including debt service for bonds previously issued for such facilities, shall not be included in any determination of the Commonwealth's debt capacity.

(2) For the purposes of this section, "auxiliary enterprises" means an entity of a postsecondary institution that exists to furnish goods or services to students, faculty, or staff and may incidentally serve the general public as well and that charges a fee directly related to, although not necessarily equal to, the cost of the goods or services. The term includes but shall not be limited to housing, food services, bookstores, recreation or fitness centers, parking facilities, and intercollegiate athletics, but does not include facilities designated as educational and general.

Section 2. KRS 48.180 is amended to read as follows:

In addition to the information required by KRS 48.110, the Governor shall submit the following information as a separate part of the branch budget request for the executive branch of government:

(1) Summary statements of the financial condition of the state, which shall include such detailed schedules of revenues and summary of expenditures by fund as specified by law in addition to those the Governor deems desirable; and summary statements of the estimated fund balances for the current fiscal year and each of the next two (2) fiscal years; and statement of the surplus account for the general fund and the road fund, for the budget reserve trust fund account, and for each special fund. Each surplus account shall show the excess of all current revenues over all current expenditures as of the beginning of each of the two (2) fiscal years last concluded, and all changes in each surplus account during each of such two (2) fiscal years.

(2) A statement as of the close of the last completed fiscal year and as of the close of the current fiscal year, showing *separately* for the Commonwealth *and for postsecondary institutions as issuers of auxiliary enterprises agency revenue bonds or hospital agency revenue bonds* the total funded debt, the value of sinking fund assets, the net funded debt, the floating liabilities as of the close of the last completed fiscal year and the estimated floating liabilities as of the end of the current fiscal year, and the total debt as of the close of the last completed fiscal year and as of the close of the current fiscal year.

(3) A summary statement for each major fund of the cash resources estimated to be available at the beginning of each of the next two (2) fiscal years, and the estimated cash receipts of the fiscal year.

(4) Such other information as is deemed desirable or is required by law or regulation.

SECTION 3. A NEW SECTION OF KRS 164A.550 TO 164A.630 IS CREATED TO READ AS FOLLOWS:

(1) The governing board of any postsecondary institution may issue auxiliary enterprises agency revenue bonds or hospital agency revenue bonds in order to construct, improve, or equip an authorized facility. These bonds shall not be issued to finance educational and general facilities; however, up to ten percent (10%) of the facility financed by the bonds may be used for educational and general uses. Any sale of bonds issued under this section shall be competitively bid pursuant to KRS 424.360.

(2) A capital project to be financed with auxiliary enterprises agency revenue bonds or hospital agency revenue bonds shall be of the type where the auxiliary enterprise system or hospital system will produce revenues, after payment of

costs related to operating and maintaining the system, sufficient to meet all debt service required of the system, issuance costs, reserve fund requirements, insurance premium, and any other expenditures necessary for financing. The governing board that issues an auxiliary enterprises agency revenue bond or a hospital agency revenue bond under this section shall not request an appropriation from the state general fund to pay debt service or other financing costs of the bonds. The governing board shall certify in writing prior to issuance of these agency revenue bonds that the system will produce sufficient revenues to pay for all such expenses, and submit a copy of the certification to the Council on Postsecondary Education, the Finance and Administration Cabinet, and the Capital Projects and Bond Oversight Committee.

(3) All bonds issued under this section shall be obligations only of the governing board of the institution, payable as to both principal and interest from the auxiliary enterprise revenues or hospital system revenues pledged for that purpose. In no event shall the bonds be considered a debt for which the credit of the Commonwealth is pledged. Any resolution adopted under the provisions of this section shall constitute a contract between the governing board of the institution and the holder of any bond and shall be binding in all respects upon the governing board and its successors.

(4) All capital projects to be financed under this section shall be authorized by the General Assembly by title and project scope as an auxiliary enterprises agency revenue bond project or a hospital agency revenue bond project. Notwithstanding KRS 56.495, the governing board may authorize expenditures totaling less than four hundred thousand ($400,000) for necessary financial analysis and project development prior to General Assembly authorization and choose, independent of the Office of Financial Management, an underwriter, financial advisor, or bond counsel notwithstanding KRS 45A.850; however, all funds advanced for this purpose shall be repaid from the proceeds of the such bonds upon issuance.

(5) The governing board shall specify by resolution the project authorized to be financed by the auxiliary enterprises agency revenue bonds or hospital agency revenue bonds. The resolution shall fix the initial minimum rents, tolls, fees, and other charges to be imposed in connection with the services furnished by the related system; and, in those cases where the facility includes limited components relating to educational and general uses as provided in subsection (1) of this section, the resolution may also provide that the governing board pay from the institution's operating budget the reasonable cost and value of any service rendered for those educational and general uses.

(6) The charges for the services from the facility, together with the available revenues of any other facility or facilities of the type that generate revenues and subject to the provisions of this section that are pledged to the payment of the bonds, shall be sufficient at all times to provide for the payment of the interest and to fund a sinking fund to accomplish retirement of the bonds at or before maturity, and to pay the current costs of operating and maintaining the facility to the extent these expenses are not otherwise provided. The charges shall be revised from time to time as to produce sufficient revenues prescribed by this section.

(7) The resolution shall fix the extent of the pledge of revenues generated by any other postsecondary facility or facilities described above, and may specify the terms and conditions upon which additional bonds may be thereafter issued and sold ranking on a parity with and payable from the same sources as the bonds authorized by such resolution, and such additional parity bonds may thereafter be so issued and sold to pay all or any part of the cost of the additional facility or facilities.

(8) Upon authorization of an auxiliary enterprises agency revenue bond project or a hospital agency revenue bond project, the governing board of the institution may issue revenue bond anticipation notes or advance moneys from other legally available funds of the institution in order to pay for the costs of land acquisition, site development, studies, professional services, and other costs incidental to the letting of construction bids. Any moneys advanced by the governing board shall be reimbursed from the proceeds of these bonds.

(9) If the governing board is unable to pay the required principal and interest payments due on bonds issued under this section from system revenues or from other available agency revenues and the governing board fails to transmit to the paying agent bank or trustee the debt service and administrative payments when due as required by the bond issuance resolution, the paying agent bank or trustee shall notify the secretary of the Finance and Administration Cabinet in writing and request that the cabinet withhold or intercept from the governing board a sufficient portion of any appropriated state funds not yet disbursed to the institution to satisfy the required payment on the bonds. If the secretary determines that the institution is in risk of defaulting on the payment of the bonds or has defaulted, the secretary shall notify the governing board and within five (5) days remit payment to the paying agent bank or trustee such funds as are required from the appropriation to the institution. Thereafter, the governing board shall, to the extent it is otherwise legally permitted, take action within sixty (60) days to adopt a resolution to generate additional revenues, such as increasing the minimum rents, tolls, fees, and other charges, in order to positively adjust remittances to the funds accounts. Nothing in this section shall be construed to create any obligation on the part of the Commonwealth to make any payment on behalf of the defaulting institution other than from funds previously appropriated to the governing board of that institution.

Section 4. KRS 56.450 is amended to read as follows:

(1) There is recognized, as an independent agency of the state within the meaning of KRS Chapter 12, and as a constituted authority of the Commonwealth of Kentucky, a state and a sovereign entity within the meaning of regulations of the United States Department of the Treasury, Internal Revenue Service, a State Property and Buildings Commission composed of the

Governor, who shall be chairman thereof, the Lieutenant Governor who shall be vice chairman of the commission, the Attorney General, the secretary of the Cabinet for Economic Development, the secretary of the Finance and Administration Cabinet, and the secretary of the Revenue Cabinet, or their alternates as authorized in subsection (5) of this section.

(2) No member of the commission shall receive any salary, fee, or other remuneration for his services as a member of the commission, but each member shall be entitled to be reimbursed for his ordinary traveling expenses, including meals and lodging, incurred in the performance of his duties.

(3) The commission shall constitute a public body corporate with perpetual succession and power in its name to contract and be contracted with, sue and be sued, adopt bylaws, have and use a corporate seal, and exercise all of the powers granted to private corporations generally in KRS Chapter 271B, except as that chapter may be inconsistent with KRS 56.440 to 56.550.

(4) Subject to the provisions of KRS 56.550, but notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, all revenue bonds issued by state agencies, except as provided in this chapter (but not including bonds issued directly by and in the name of the Commonwealth of Kentucky under authorization of the executive cabinet), shall be issued under the provisions of this chapter. As an additional and alternative method for the issuance of revenue bonds under the provisions of this chapter, upon application of any state agency and approval by the commission, the commission acting for and on behalf of said state agency may issue revenue bonds in its own name, in accordance with the terms and provisions of KRS Chapter 58, secured by and payable solely from all or any part of the revenues of the state agency as may be specified and provided in the approved application. Any covenants and undertakings of the state agency in the approved application with regard to the production of revenues and the use, application, or disposition thereof may be enforced by the holders of any of the revenue bonds or by any trustee for such bondholders. The issuance of any revenue bonds for the state or any of its agencies by or on behalf of the Kentucky Economic Development Finance Authority and the issuance of any revenue bonds for economic development projects authorized by Acts 1980, Ch. 109, shall require the prior approval of the State Property and Buildings Commission. In issuing bonds under its own name, or in approving issuance of bonds by other state agencies, the commission shall be deemed to be acting for the state government of the Commonwealth of Kentucky as one (1) unit within the meaning of the regulations of the United States Department of the Treasury, Internal Revenue Service, and it shall be limited to the issuance of bonds to accomplish the public purposes of that unit.

(5) (a) Each member of the commission may designate, by an instrument in writing over his signature and filed with the secretary as a public record of the commission, an alternate with full authority to attend in the absence of the appointing member for any reason, any properly convened meeting of the commission and to participate in the consideration of, and voting upon, business and transactions of the commission. Any designation of an alternate may, in the discretion of the appointing member, be limited upon the face of the appointing instrument, to be effective only for a designated meeting or only for specified business; or the same may be shown on the face of the appointing instrument to be on a continuing basis (but in no case for a period of more than four (4) years), whenever the appointing member is unable to attend, but always subject to revocation by the appointing member in an instrument of like formality, similarly filed with the secretary as a public record of the commission. Any party transacting business with the commission, or materially affected thereby, shall be entitled to accept and rely upon a joint certificate of the secretary of the commission and any member of the commission concerning the designation of any alternate, the time of designation, the scope thereof, and if of a continuing nature, whether the same has been revoked, and when; and the joint certificate shall be made and delivered to any such party within a reasonable time after written request is made therefor with acceptable identification of the business or transaction referred, and of the requesting party's interest therein. Each alternate shall be a person on the staff of the appointing member, or in the employ of his agency or department of the government of the Commonwealth, as the case may be.

(b) Any four (4) members of the commission, or their alternates authorized under paragraph (a) of this subsection, shall constitute a quorum and shall by majority vote be authorized to transact any and all business of the commission.

(c) The State Property and Buildings Commission is reconstituted as of October 1, 1976, with the powers herein provided.

(6) Any bonds authorized by the General Assembly for projects at postsecondary institutions or any refundings of such bonds that require a specific appropriation from the state general fund for associated debt service shall be issued by the commission unless the secretary of the Finance and Administration Cabinet approves the bonds to be issued by the institution. This approval shall be transmitted by the secretary, with findings of fact, to the Capital Projects and Bond Oversight Committee.

HB 498, AN ACT relating to delinquent property taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.500 is amended to read as follows:

(1) Uncollectible tax claims shall bear interest at twelve percent (12%) per annum simple interest from the date the certificate of delinquency is issued. A fraction of a month is counted as an entire month. The sheriff's add-on fee provided in KRS

134.430, the clerk's add-on fee provided in KRS 134.480, and the county attorney's add-on fee provided in this section shall be excluded from the interest calculation except in counties containing cities of the first class or consolidated local government. All tax bills on omitted property that were not turned over to the sheriff in time to be collected or to make the sale provided for in KRS 134.430 and 134.440 shall also be submitted to the fiscal court but shall be carried over as a charge against the sheriff at the time he makes his next regular settlement.

(2) The cabinet shall be responsible for the collection of certificates of delinquency and delinquent personal property tax bills; however, the cabinet shall first offer the collection duties to the county attorney, unless the cabinet determines that the county attorney has previously failed to perform collection duties in a reasonable and acceptable manner. Any county attorney desiring to perform the duties associated with the collection of delinquent tax claims shall enter into a contract with the cabinet on an annual basis. The terms of the contract shall specify the duties to be undertaken by the county attorney. These duties shall include but are not limited to the following actions:

(a) Within fifty (50) days after the issuance of a certificate of delinquency to the state, county, and taxing district, the county attorney or the Revenue Cabinet shall cause a notice of the purchase to be mailed by regular mail to the property owner at the address on the records of the property valuation administrator. The notice shall advise the owner that the certificate is a lien of record against all property of the owner, and bears interest at the rate of twelve percent (12%) per annum, and if not paid will be subject to collection by the county attorney as provided by law.

(b) The county attorney shall file in the office of the county clerk a list of the names and addresses to which the notice was mailed along with a certificate that the notice was mailed in accordance with the requirements of this section.

(c) All notices returned as undeliverable shall be submitted to the property valuation administrator. The property valuation administrator shall attempt to correct inadequate or erroneous addresses and, if property has been transferred, shall determine the new owner and the current mailing address. The property valuation administrator shall return the notices with the corrected information to the county attorney prior to the expiration of the one (1) year tolling period provided in KRS 134.470.

(d) Within ninety (90) days after the expiration of the one (1) year tolling period provided in KRS 134.470, the county attorney shall cause a notice of his intention to enforce the lien to be mailed to all owners whose tax bills remain delinquent. No second notice shall be required for addresses previously determined to be undeliverable and for which the property valuation administrator has not provided corrected information.

(e) Failure to mail the notices shall not affect the validity of the claim of the state, county, and taxing district. The postal cost of mailing the notices shall be added to the certificate of delinquency and, upon collection, the county attorney shall be reimbursed for the postage. The county attorney shall deliver at the same time a list of the owners whose tax bills remain delinquent to the property valuation administrator. The property valuation administrator shall review this list in accordance with the provisions of KRS 132.220 to establish that the properties on the list can be identified and physically located.

(3) The county attorney who enters into a contract with the cabinet shall have a period of two (2) years after the expiration of the one (1) year tolling period provided in KRS 134.470 to collect delinquent tax bills or to initiate court action for their collection. At the expiration of the two (2) years the cabinet may assume responsibility for all uncollected bills except those with pending court action.

(4) The county attorney who enters into a contract with the cabinet and performs his duties in respect to the certificate of delinquency and delinquent personal property tax bills shall be entitled to twenty percent (20%) of the amount due each taxing unit, whether the tax claim is voluntarily paid or is paid through sale or under court order, and the fee shall be paid to him by the county clerk when making distribution, as provided in KRS 134.480. This fee shall be added to the amount of the tax claims and paid by the persons paying the tax claims. They shall not be paid by the taxing districts or deducted from the taxes due the taxing districts. This fee shall be waived if the certificate of delinquency is paid by the taxpayer only within five (5) days of the sheriff's sale. If more than one (1) county attorney renders necessary services in an effort to collect a tax claim, the attorney serving the last notice or rendering the last substantial service preceding collection shall be entitled to the fee. When the county attorney's office, in an effort to collect a certificate of delinquency, or delinquent personal property tax bills files a court action ***or files a cross claim***~~[which is litigated by the taxpayer]~~, an additional county's attorney fee equal to thirteen percent (13%) of the total tax plus ten percent (10%) penalty, ***shall***~~[may]~~ be added to the certificate or the bill and shall become part of the tax claim.

(5) If a county attorney chooses not to contract for these collection duties or if a county attorney fails to perform the duties required by the contract, the cabinet shall assume responsibility for the collection process. In the performance of those duties, the cabinet shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of the amount due on the certificate of delinquency conferred generally upon the cabinet by Kentucky Revised Statutes including, but not limited to, KRS Chapters 131, 134, and 135. The twenty percent (20%) fee that would have otherwise been paid to the county attorney shall be paid to the cabinet for deposit in the delinquent tax fund provided for under KRS 134.400.

(6) Any action on behalf of the state, county, and taxing districts authorized by this section or by KRS 134.470, 134.490, or 134.540 shall be filed on relation of the secretary, and the petition may be sent to the cabinet, which may require revision in instances where it deems revision or amendment necessary. The cabinet shall advise the county attorney in all actions,

and may send him special assistance when the secretary deems assistance necessary. A copy of the judgment shall also be sent to the cabinet. If the cabinet sends assistance to a county attorney who contracts to prosecute the suits or proceedings, the county attorney shall be entitled to his full fee. On the same day that suit is filed, the county clerk shall be given notice of its filing. Costs incident to the suit shall become a part of the tax claim.

(7) The cabinet may make its delinquent tax collection databases and other technical resources, including but not limited to income tax refund offsetting, available to the county attorney upon request from the county attorney. The county attorney seeking assistance shall enter into any agreements required by the cabinet to protect taxpayer confidentiality, to ensure database integrity, or to address other concerns of the cabinet.

(8) The county attorney may, at any time after assuming collection duties, enter into an agreement with the delinquent taxpayer to accept installment payments on the delinquent tax bill. The agreement shall not waive the county attorney's right to initiate court action or other authorized collection activities if the taxpayer does not make payments in accordance with the agreement.

HB 518, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.320 is amended to read as follows:

(1) Any person who has failed to list for taxation his intangible personal property or tangible personal property, in whole or in part, because he was not called upon by the property valuation administrator or for any other reason, may at any time list the property with the cabinet by reporting to the cabinet the full details and a correct description of the omitted property and its value. The cabinet may determine and fix the fair cash value, estimated at the price it would bring at a fair voluntary sale, of the property so reported and listed for taxation.

(2) Any person dissatisfied with or aggrieved by the finding or ruling of the cabinet may appeal the finding or ruling in the manner provided in KRS 131.110.

(3) The cabinet may promulgate administrative regulations, and develop forms for the listing and assessment of the property assessed or to be assessed for taxation.

(a) The tax assessed shall be paid to and collected by the cabinet.

(b) Taxes collected by the cabinet on behalf of the county, school, and other local taxing districts shall be distributed to each district at least quarterly. ***The cabinet shall also provide each county, school, and other local taxing district receiving a distribution a list identifying each individual taxpayer making a tax payment included in the distribution, and the amount of the payment made by each taxpayer.***

(c) From each distribution, the cabinet shall deduct a fee which represents an allocation of cabinet operating and overhead expenses incurred in assessing and collecting the omitted tax. The fee shall be determined by the cabinet and shall apply to all omitted taxes collected after December 31, 1997.

(4) All property assessed pursuant to this section shall be liable for the payment of the taxes, interest, and penalties provided by law for failure to list the property with the property valuation administrator or other assessment board, commission, or authority within the time and in the manner prescribed by law, except that if the taxpayer voluntarily lists property under this section the twenty percent (20%) penalty provided to be paid to the cabinet shall not apply, unless the taxpayer on an appeal from the action of the cabinet attempts to reduce the assessment and is unsuccessful.

(5) If after demand by the cabinet, any taxpayer refuses to voluntarily list any intangible or tangible personal property omitted from assessment, the cabinet shall make an estimate of the fair cash value of the omitted intangible or tangible personal property from the information in its possession and assess the property for taxation and require payment of the taxes, penalties, and interest due to the state and local taxing districts from the person assessed. Notice of the assessment shall be mailed to the taxpayer or the taxpayer's agent. The finality and review of any assessment made pursuant to this section shall be governed by the provisions of KRS 131.110.

The Committee Substitute to **HB 518** is as follows:

HB 518, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.320 is amended to read as follows:

(1) Any person who has failed to list for taxation his intangible personal property or tangible personal property, in whole or in part, because he was not called upon by the property valuation administrator or for any other reason, may at any time list the property with the cabinet by reporting to the cabinet the full details and a correct description of the omitted property and its value. The cabinet may determine and fix the fair cash value, estimated at the price it would bring at a fair voluntary sale, of the property so reported and listed for taxation.

(2) Any person dissatisfied with or aggrieved by the finding or ruling of the cabinet may appeal the finding or ruling in the

manner provided in KRS 131.110.

(3) The cabinet may promulgate administrative regulations, and develop forms for the listing and assessment of the property assessed or to be assessed for taxation.

(a) The tax assessed shall be paid to and collected by the cabinet.

(b) Taxes collected by the cabinet on behalf of the county, school, and other local taxing districts shall be distributed to each district at least quarterly. ***The cabinet shall also provide each county, school, and other local taxing district receiving a distribution a list identifying each individual taxpayer making a tax payment included in the distribution, and the amount of the payment made by each taxpayer. Any information provided by the cabinet pursuant to this paragraph shall be provided in accordance with the provisions of KRS 131.190(2).***

(c) From each distribution, the cabinet shall deduct a fee which represents an allocation of cabinet operating and overhead expenses incurred in assessing and collecting the omitted tax. The fee shall be determined by the cabinet and shall apply to all omitted taxes collected after December 31, 1997.

(4) All property assessed pursuant to this section shall be liable for the payment of the taxes, interest, and penalties provided by law for failure to list the property with the property valuation administrator or other assessment board, commission, or authority within the time and in the manner prescribed by law, except that if the taxpayer voluntarily lists property under this section the twenty percent (20%) penalty provided to be paid to the cabinet shall not apply, unless the taxpayer on an appeal from the action of the cabinet attempts to reduce the assessment and is unsuccessful.

(5) If after demand by the cabinet, any taxpayer refuses to voluntarily list any intangible or tangible personal property omitted from assessment, the cabinet shall make an estimate of the fair cash value of the omitted intangible or tangible personal property from the information in its possession and assess the property for taxation and require payment of the taxes, penalties, and interest due to the state and local taxing districts from the person assessed. Notice of the assessment shall be mailed to the taxpayer or the taxpayer's agent. The finality and review of any assessment made pursuant to this section shall be governed by the provisions of KRS 131.110.

The Committee on Labor and Industry reported **HB 499** and **SB 45**, with House Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 499, AN ACT relating to workers' compensation

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.316 is amended to read as follows:

(1) (a) The employer liable for compensation for occupational disease shall be the employer in whose employment the employee was last exposed to the hazard of the occupational disease. During any period in which this section is applicable to a coal mine, an operator who acquired it or substantially all of its assets from a person who was its operator on and after January 1, 1973, shall be liable for, and secure the payment of, the benefits which would have been payable by the prior operator under this section with respect to miners previously employed in the mine if it had not been acquired by such later operator. At the same time, however, this subsection does not relieve the prior operator of any liability under this section. Also, it does not affect whatever rights the later operator might have against the prior operator.

(b) The time of the beginning of compensation payments shall be the date of the employee's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later.

(2) The procedure with respect to the giving of notice and determination of claims in occupational disease cases and the compensation and medical benefits payable for disability or death due to the disease shall be the same as in cases of accidental injury or death under the general provisions of this chapter, except that notice of claim shall be given to the employer as soon as practicable after the employee first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted the disease, or a diagnosis of the disease is first communicated to him, whichever shall first occur.

(3) The procedure for filing occupational disease claims shall be as follows:

(a) The application for resolution of claim shall set forth the complete work history of the employee with a concise description of injurious exposure to a specific occupational disease, together with the name and addresses of the employer or employers with the approximate dates of employment. The application shall also include at least one (1) written medical report supporting his claim. This medical report shall be made on the basis of clinical or X-ray examination performed in accordance with accepted medical standards and shall contain full and complete statements of all examinations performed and the results thereof. The report shall be made by a duly-licensed physician. The commissioner shall promulgate administrative regulations which prescribe the format of the medical report required by this section and the manner in which the report shall be completed.

1. For coal-related occupational pneumoconiosis claims, each clinical examination shall include ***two (2)***~~[a]~~ chest X-ray ***interpretations***~~[interpretation by a National Institute of Occupational Safety and Health (NIOSH) certified "B" reader. The chest X-ray upon which the report is made shall be filed with the~~

~~application]~~ as well as spirometric tests when pulmonary dysfunction is alleged.

2. For other compensable occupational pneumoconiosis claims, each clinical examination shall include a chest X-ray examination and appropriate pulmonary function tests.

(b) To be admissible, medical evidence offered in any proceeding under this chapter for determining a claim for occupational pneumoconiosis resulting from exposure to coal dust shall comply with accepted medical standards as follows:

1. Chest X-rays shall be of acceptable quality with respect to exposure and development and shall be indelibly labeled with the date of the X-ray and the name and Social Security number of the claimant. Physicians' reports of X-ray interpretations shall: identify the claimant by name and Social Security number; include the date of the X-ray and the date of the report; classify the X-ray interpretation using the latest ILO Classification and be accompanied by a completed copy of the latest ILO Classification report. Only interpretations by National Institute of Occupational Safety and Health (NIOSH) certified "B" readers shall be admissible.

2. Spirometric testing shall be conducted in accordance with the standards recommended in the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association and the 1978 ATS epidemiology standardization project with the exception that the predicted normal values for lung function shall not be adjusted based upon the race of the subject. The FVC or the FEV1 values shall represent the largest of such values obtained from three (3) acceptable forced expiratory volume maneuvers as corrected to BTPS (body temperature, ambient pressure and saturated with water vapor at these conditions) and the variance between the two (2) largest acceptable FVC values shall be either less than five percent (5%) of the largest FVC value or less than one hundred (100) milliliters, whichever is greater. The variance between the two (2) largest acceptable FEV1 values shall be either less than five percent (5%) of the largest FEV1 value or less than one hundred (100) milliliters, whichever is greater. Reports of spirometric testing shall include a description by the physician of the procedures utilized in conducting such spirometric testing and a copy of the spirometric chart and tracings from which spirometric values submitted as evidence were taken.

3. The commissioner shall promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to effectuate the purposes of this section. The commissioner shall periodically review the applicability of the spirometric test values contained in the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association and may by administrative regulation substitute other spirometric test values which are found to be more closely representative of the normal pulmonary function of the coal mining population.

4. The procedure for determination of occupational disease claims shall be as follows:

   a. Immediately upon receipt of an application for resolution of claim, the commissioner shall notify the responsible employer and all other interested parties and shall furnish them with a full and complete copy of the application.

   b. The commissioner shall assign the claim to an administrative law judge and, except for ***coal-related occupational***~~[coal workers']~~ pneumoconiosis claims, shall promptly refer the employee to such physician or medical facility as the commissioner may select for examination. The report from this examination shall be provided to all parties of record. The employee shall not be referred by the commissioner for examination within two (2) years following any prior referral for examination for the same disease.

   c. ~~[Except for coal workers' pneumoconiosis claims,]~~Within forty-five (45) days following the notice of filing an application for resolution of claim, the employer or carrier shall notify the commissioner and all parties of record of its acceptance or denial of the claim. A denial shall be in writing and shall state the specific basis for the denial.~~[In coal workers' pneumoconiosis claims, the employer's notice of claim denial or acceptance shall be filed within thirty (30) days of the issuance by the commissioner of the notice of the consensus reading unless the consensus is that the miner has not developed coal workers' pneumoconiosis category 1/0 or greater. In the event the consensus procedure is exhausted without consensus being established, the employer's notice of claim denial or acceptance shall be filed within thirty (30) days of the commissioner's notification to the administrative law judge that consensus has not been reached.~~

   ~~d. Within forty-five (45) days of assignment of a coal workers' pneumoconiosis claim to an administrative law judge, the employer shall cause the employee to be examined by a physician of the employer's choice and shall provide to all other parties and file with the commissioner the X-ray interpretation by a "B" reader. The examination of the employee shall include spirometric testing if pulmonary dysfunction is alleged by the employee in the application for resolution of a claim. The commissioner shall determine whether the X-ray interpretations filed by the parties are in consensus.~~

~~e. If the readings are not in consensus, the commissioner shall forward both films, masking information identifying the facility where the X-ray was obtained and the referring physician, consecutively to three (3) "B" readers selected randomly from a list maintained by the commissioner for interpretation. Each "B" reader shall select the highest quality film and report only the interpretation of that film. The commissioner shall determine if two (2) of the X-ray interpretations filed by the three (3) "B" readers selected randomly are in consensus. If consensus is reached, the commissioner shall forward copies of the report to all parties as well as notice of the consensus reading which shall be considered as evidence. If consensus is not reached, the administrative law judge shall decide the claim on the evidence submitted.~~

~~f. "Consensus" is reached between two (2) chest X-ray interpreters when their classifications meet one (1) of the following criteria: each finds either category A, B, or C progressive massive fibrosis; or findings with regard to simple pneumoconiosis are both in the same major category and within one (1) minor category (ILO category twelve (12) point scale) of each other.~~]

(d)[~~g.~~] The administrative law judge shall conduct such proceedings as are necessary to resolve the claim and shall have authority to grant or deny any relief, including interlocutory relief, to order additional proof, to conduct a benefit review conference, or to take such other action as may be appropriate to resolve the claim.

(e)[~~h.~~] Unless a voluntary settlement is reached by the parties, or the parties agree otherwise, the administrative law judge shall issue a written determination within sixty (60) days following a hearing. The written determination shall address all contested issues and shall be enforceable under KRS 342.305.

5. The procedure for appeal from a determination of an administrative law judge shall be as set forth in KRS 342.285.

(4) (a) The right to compensation under this chapter resulting from an occupational disease shall be forever barred unless a claim is filed with the commissioner within three (3) years after the last injurious exposure to the occupational hazard or after the employee first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted the disease, whichever shall last occur; and if death results from the occupational disease within that period, unless a claim therefor be filed with the commissioner within three (3) years after the death; but that notice of claim shall be deemed waived in case of disability or death where the employer, or his insurance carrier, voluntarily makes payment therefor, or if the incurrence of the disease or the death of the employee and its cause was known to the employer. However, the right to compensation for any occupational disease shall be forever barred, unless a claim is filed with the commissioner within five (5) years from the last injurious exposure to the occupational hazard, except that, in cases of radiation disease or asbestos-related disease, a claim must be filed within twenty (20) years from the last injurious exposure to the occupational hazard.

(b) Income benefits for the disease of ***coal-related occupational*** pneumoconiosis resulting from exposure to coal dust or death therefrom shall not be payable unless the employee has been exposed to the hazards of such pneumoconiosis in the Commonwealth of Kentucky over a continuous period of not less than two (2) years during the ten (10) years immediately preceding the date of his last exposure to such hazard, or for any five (5) of the fifteen (15) years immediately preceding the date of such last exposure.

(5) The amount of compensation payable for disability due to occupational disease or for death from the disease, and the time and manner of its payment, shall be as provided for under the general provisions of the Workers' Compensation Act, but:

(a) In no event shall the payment exceed the amounts that were in effect at the time of the last injurious exposure;

(b) The time of the beginning of compensation payments shall be the date of the employee's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later; and

(c) In case of death where the employee has been awarded compensation or made timely claim within the period provided for in this section, and an employee has suffered continuous disability to the date of his death occurring at any time within twenty (20) years from the date of disability, his dependents, if any, shall be awarded compensation for his death as provided for under the general provisions of the Workers' Compensation Act and in this section, except as provided in KRS 342.750(6).

(6) If an autopsy has been performed, no testimony relative thereto shall be admitted unless the employer or his representative has available findings and reports of the pathologist or doctor who performed the autopsy examination.

(7) No compensation shall be payable for occupational disease if the employee at the time of entering the employment of the employer by whom compensation would otherwise be payable, falsely represented himself, in writing, as not having been previously disabled, laid off, or compensated in damages or otherwise, because of the occupational disease, or failed or omitted truthfully to state to the best of his knowledge, in answer to written inquiry made by the employer, the place, duration, and nature of previous employment, or, to the best of his knowledge, the previous state of his health.

(8) No compensation for death from occupational disease shall be payable to any person whose relationship to the deceased,

which under the provisions of this chapter would give right to compensation, arose subsequent to the beginning of the first compensable disability, except only for after-born children of a marriage existing at the beginning of such disability.

(9) Whenever any claimant misconceives his remedy and files an application for adjustment of claim under the general provisions of this chapter and it is subsequently discovered, at any time before the final disposition of the cause, that the claim for injury, disability, or death which was the basis for his application should properly have been made under the provisions of this section, then the application so filed may be amended in form or substance, or both, to assert a claim for injury, disability, or death under the provisions of this section, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and compensation may be awarded that is warranted by the whole evidence pursuant to the provisions of this chapter. When amendment of this type is submitted, further or additional evidence may be heard when deemed necessary. Nothing this section contains shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice of time for filing of a claim, but notice of filing a claim, if given or done, shall be deemed to be a notice of filing of a claim under provisions of this chapter, if given or done within the time required by this subsection.

(10) When an employee has an occupational disease that is covered by this chapter, the employer in whose employment he was last injuriously exposed to the hazard of the disease, and the employer's insurance carrier, if any, at the time of the exposure, shall alone be liable therefor, without right to contribution from any prior employer or insurance carrier, except as otherwise provided in this chapter.

(11) (a) Income benefits for coal-related occupational pneumoconiosis shall be paid fifty percent (50%) by the Kentucky coal workers' pneumoconiosis fund as established in KRS 342.1242 and fifty percent (50%) by the employer in whose employment the employee was last exposed to the hazard of that occupational disease.

(b) Compensation for all other occupational disease shall be paid by the employer in whose employment the employee was last exposed to the hazards of the occupational disease.

(12) A concluded claim for benefits by reason of contraction of ***coal-related occupational***[~~coal workers'~~] pneumoconiosis in the severance or processing of coal shall bar any subsequent claim for benefits by reason of contraction of ***coal-related occupational***[~~coal workers'~~] pneumoconiosis, unless there has occurred in the interim between the conclusion of the first claim and the filing of the second claim at least two (2) years of employment wherein the employee was continuously exposed to the hazards of the disease in the Commonwealth.

(13) For coal-related occupational pneumoconiosis claims, the ***provisions of subsection (3) of this section as amended on the effective date of this Act***[~~consensus procedure~~] shall apply to all claims which have not been assigned to an administrative law judge prior to ***the effective date of this Act***[~~July 15, 2002. The consensus classification shall be presumed to be the correct classification of the employee's condition unless overcome by clear and convincing evidence. If an administrative law judge finds that the presumption of correctness of the consensus reading has been overcome, the reasons shall be specially stated in the administrative law judge's order~~].

Section 2. KRS 342.732 is amended to read as follows:

(1) Notwithstanding any other provision of this chapter, income benefits and retraining incentive benefits for ***coal-related*** occupational pneumoconiosis resulting from exposure to coal dust in the severance or processing of coal shall be paid as follows:

(a) 1. If an employee has a radiographic classification of category 1/0, 1/1 or 1/2, ***coal-related occupational***[~~coal workers'~~] pneumoconiosis and spirometric test values of eighty percent (80%) or more, the employee shall be awarded a one (1) time only retraining incentive benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage as determined by KRS 342.740, but not more than seventy-five percent (75%) of the state average weekly wage, payable semimonthly for a period not to exceed one hundred four (104) weeks, except as provided in subparagraph 3. of this paragraph.

2. Except as provided in subparagraph 3. of this paragraph, these benefits shall be paid only while the employee is enrolled and actively and successfully participating as a full-time student taking the equivalent of twelve (12) or more credit hours per week in a bona fide training or education program that if successfully completed will qualify the person completing the course for a trade, occupation, or profession and which program can be completed within the period benefits are payable under this subsection. The program must be approved under administrative regulations to be promulgated by the commissioner. These benefits shall also be paid to an employee who is a part-time student taking not less than the equivalent of six (6) nor more than eleven (11) credit hours per week, except that benefits shall be an amount equal to thirty-three and one-third percent (33-1/3%) of the employee's average weekly wage as determined by KRS 342.740, but not more than thirty-seven and one-half percent (37-1/2%) of the state average weekly wage, payable biweekly for a period not to exceed two hundred eight (208) weeks.

3. These benefits shall also be paid biweekly while an employee is actively and successfully pursuing a General Equivalency Diploma (GED) in accordance with administrative regulations promulgated by the commissioner. These benefits shall be paid in the amount of sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage not to exceed seventy-five percent (75%) of the state average weekly

wage for a maximum period not to exceed seventeen (17) weeks. These income benefits shall be in addition to the maximum amount of retraining incentive benefits payable under this paragraph.

4. The employer shall also pay, directly to the institution conducting the training or education program, instruction, tuition, and material costs not to exceed five thousand dollars ($5,000).

5. The period of weeks during which this benefit is payable shall begin no later than the thirtieth day after the administrative law judge's order awarding the benefit becomes final, except that an employee may elect to defer the beginning of such benefits up to the three hundred sixty-fifth day following the thirtieth day the order becomes final. Unless the employee has requested deferral of income benefits, those income benefits payable under subparagraphs 1. and 2. of this paragraph shall begin no later than thirty (30) days following conclusion of income benefits paid under subparagraph 3. if such benefits were paid.

6. If an employee who is awarded retraining incentive benefits under this paragraph successfully completes a bona fide training or education program approved by the commissioner, upon completion of the training or education program, the employer shall pay to that employee the sum of five thousand dollars ($5,000) for successful completion of a program that requires a course of study of not less than twelve (12) months nor more than eighteen (18) months, or the sum of ten thousand dollars ($10,000) for successful completion of a program that requires a course of study of more than eighteen (18) months. This amount shall be in addition to retraining incentive benefits awarded under this paragraph, and tuition expenses paid by the employer.

7. An employee who is age ***fifty-two (52)***[~~fifty seven (57)~~] years or older on the date of last exposure and who is awarded retraining incentive benefits under subparagraph 1. to 4. of this paragraph, may elect to receive in lieu of retraining incentive benefits, an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage, not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of twenty-five percent (25%) for a period not to exceed four hundred twenty-five (425) weeks, or until the employee reaches sixty-five (65) years of age, whichever occurs first, KRS 342.730(4) notwithstanding.

8. A claim for retraining incentive benefits provided under this section may be filed, but benefits shall not be payable, while an employee is employed in the severance or processing of coal as defined in KRS 342.0011(23).

9. If an employer appeals an award of retraining incentive benefits, upon an employee's motion, an administrative law judge may grant retraining incentive benefits pending appeal as interlocutory relief.

10. If an employee elects to defer payment of retraining incentive benefits for a period of retraining longer than three hundred sixty-five (365) days, benefits otherwise payable shall be reduced week-for-week for each week retraining benefits are further deferred.

(b) 1. If an employee has a radiographic classification of category 1/0, 1/1, or 1/2 ***coal-related occupational***[~~coal workers'~~] pneumoconiosis and respiratory impairment ***resulting from exposure to coal dust*** evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, or category 2/1, 2/2, or 2/3 ***coal-related occupational***[~~coal workers'~~] pneumoconiosis and spirometric test values of eighty percent (80%) or more of the predicted normal values, there shall be an irrebuttable presumption that the employee has a disability rating of twenty-five percent (25%) resulting from exposure to coal dust, and the employee shall be awarded an income benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage, but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of twenty-five percent (25%). The award shall be payable for a period not to exceed four hundred twenty-five (425) weeks.

2. An employee who is awarded benefits under this paragraph may, at the time of the award or before benefit payments begin, elect to receive retraining incentive benefits provided under subparagraphs 1. to 6. of paragraph (a) of this subsection, in lieu of income benefits awarded under this paragraph, provided that such option is available one (1) time only and is not revokable, and provided that in no event shall income benefits payable under this paragraph be stacked or added to retraining incentive income benefits paid or payable under subparagraphs 1. to 6. of paragraph (a) of this subsection to extend the period of disability.

(c) If it is determined that an employee has a radiographic classification of category 1/0, 1/1, or 1/2, ***coal-related occupational pneumoconiosis***, and respiratory impairment resulting from exposure to coal dust as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values, or category 2/1, 2/2, or 2/3 ***coal-related occupational***[~~coal workers'~~] pneumoconiosis and respiratory impairment ***resulting from exposure to coal dust*** evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, or category 3/2 or 3/3 ***coal-related occupational***[~~coal workers'~~] pneumoconiosis and spirometric test values of eighty percent (80%) or more, there shall be an irrebuttable presumption that the employee has a disability rating of fifty percent (50%) resulting from exposure to coal dust, and the employee shall be awarded an income benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of fifty percent (50%). The award shall be payable for a period not to exceed four hundred twenty-five (425) weeks.

(d) If it is determined that an employee has a radiographic classification of category 2/1, 2/2, or 2/3 ***coal-related occupational***[~~coal workers'~~] pneumoconiosis[~~, based on the latest ILO International Classification of Radiographics,~~] and respiratory impairment ***resulting from exposure to coal dust*** as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values or category 3/2 or 3/3 ***coal-related occupational*** pneumoconiosis and respiratory impairment ***resulting from exposure to coal dust*** evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, there shall be an irrebuttable presumption that the employee has a seventy-five percent (75%) disability rating resulting from exposure to coal dust and the employee shall be awarded income benefits which shall be equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of seventy-five percent (75%). The award shall be payable for a period not to exceed five hundred twenty (520) weeks. Income benefits awarded under this paragraph shall be payable to the employee during the disability.

(e) If it is determined that an employee has radiographic classification of 3/2 or 3/3 ***coal-related*** occupational pneumoconiosis and respiratory impairment ***resulting from exposure to coal dust*** evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values, or complicated ***coal-related occupational*** pneumoconiosis (large opacities category A, B, or C progressive massive fibrosis), there shall be an irrebuttable presumption that the employee is totally disabled resulting from exposure to coal dust, and the employee shall be awarded income benefits equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the average weekly wage of the state as determined by KRS 342.740. Income benefits awarded under this paragraph shall be payable to the employee during such disability.

(2) The presence of respiratory impairment resulting from exposure to coal dust shall be established by using the largest forced vital capacity (FVC) value or the largest forced expiratory volume in one second (FEV1) value determined from the totality of all such spirometric testing performed in compliance with accepted medical standards.

(3) When valid spirometric tests are not provided and a physician certifies to the administrative law judge that spirometric testing is not medically indicated because of the permanent physical condition of the employee, the administrative law judge shall make his decision on the basis of evidence admitted which establishes the existence of a diagnosis of occupational pneumoconiosis and respiratory impairment due to the occupational pneumoconiosis. The evidence submitted by the employee shall include one (1) or more arterial blood gas studies performed in accordance with accepted medical standards. Income benefits shall not be awarded in the absence of valid spirometric tests if the claimant's PO2 arterial blood gas value is equal to or higher than one (1) standard deviation from the normal value obtained by the formula (103.5 - 0.42X), where X equals the claimant's age at the time of the arterial blood gas study.

(4) Upon request, the commissioner shall refer an employee who has been awarded retraining incentive benefits under subsection (1)(a) of this section to the Department of Vocational Rehabilitation for evaluation and assessment of the training, education, or other services necessary to prepare the employee for a trade, occupation, or profession that will return the employee to remunerative employment, or services necessary and appropriate to prepare and enable the employee to successfully complete a bona fide training or education program approved by the commissioner. The commissioner shall contract with the Department of Vocational Rehabilitation to provide vocational rehabilitation or education services commensurate with the skill levels and abilities of the employee. Services provided under this subsection shall be funded by the coal workers' pneumoconiosis fund, KRS 342. 1242 notwithstanding.

(5) The commissioner shall promulgate administrative regulations sufficient to effectuate the provisions relating to retraining incentive benefits provided under subsection (1)(a) of this section. The administrative regulations shall:

(a) Define a "bona fide training or education program" to mean a postsecondary education or training program, including but not limited to the postsecondary programs registered with the Higher Education Assistance Authority, and successful completion of which will qualify the person completing the course for a trade, occupation, or profession, and which program can be completed within the period benefits are payable under subsection (1)(a) of this section;

(b) Establish requirements for approval and certification of a bona fide training or education program;

(c) Provide that funds paid to the training or education program by the employer as required under subsection (1)(a)4. of this section shall be applied only to instruction, tuition, material costs, and any fees necessary for the completion of the program;

(d) Establish requirements for successful participation in and completion of an approved and certified bona fide training or education program, and eligibility standards that must be satisfied to receive sums to be paid by the employer pursuant to subsection (1)(a)6. of this section; and

(e) Establish attendance, performance and progress standards, and reporting requirements in consultation with the

Department of Adult Education and Literacy as conditions that must be satisfied to receive retraining incentive income benefits pursuant to subsection (1)(a)3. of this section.

(6) In no event shall income benefits awarded under this section be stacked or added to income benefits awarded under KRS 342.730 to extend the period of disability and in no event shall income or retraining incentive benefits be paid to the employee while the employee is working in the mining industry in the severance or processing of coal as defined in KRS 342.0011(23)(a).

Section 3. KRS 342.792 is amended to read as follows:

(1) ***Notwithstanding any provision of this chapter to the contrary,*** the claim of any miner last exposed to the occupational hazards of ***coal-related occupational***[~~coal workers'~~] pneumoconiosis between December 12, 1996, and ***the effective date of this Act***[~~July 15, 2002~~], shall nonetheless be governed by the provisions of KRS 342.732 and notwithstanding the provisions of KRS 342.125 all claims for benefits which were filed for last injurious occupational exposure to coal dust occurring between December 12, 1996, and ***the effective date of this Act***[~~July 15, 2002~~], shall be considered pursuant to the provisions of KRS 342.732 and administrative regulations promulgated by the commissioner, and closed claims, except claims dismissed for reasons other than failure to meet medical eligibility standards, may be reopened by the claimant. Income or retraining incentive benefits shall be awarded thereon as if the entitlement standards established by the amendments to KRS 342.732***, effective on July 15, 2002, and on the effective date of this Act,*** were effective at the time of last exposure. Any benefits previously granted by an award or settlement shall be credited against any subsequent award or settlement and no interest shall be payable on additional benefits. A previous grant of retraining incentive benefits shall be credited only to the extent that the benefits were actually paid. All income or retraining incentive benefits greater than those which would have been awarded were not these new provisions applicable shall be paid without interest from the Kentucky coal workers' pneumoconiosis fund, the provisions of KRS 342.1242 notwithstanding.

(2)[~~The original claim of any miner last exposed to the occupational hazards of coal workers' pneumoconiosis prior to December 12, 1996, which was subject to a university evaluation pursuant to KRS 342.315 and was dismissed upon a finding that the miner did not prove the presence of coal workers' pneumoconiosis radiographically may be reopened by the claimant notwithstanding the provisions of KRS 342.125, pursuant to administrative regulations adopted by the commissioner. Income benefits may be awarded thereon pursuant to entitlement standards effective as of the date of last exposure, except the income or retraining benefits shall be paid without interest from the Kentucky coal workers' pneumoconiosis fund, the provisions of KRS 342.1242 notwithstanding.~~

~~(3)~~] Notwithstanding the provisions of KRS 342.316(4)(a), the ***coal-related occupational***[~~coal workers'~~] pneumoconiosis claim of any miner last exposed between December 12, 1996, and ***the effective date of this Act***[~~July 15, 2002~~], may be filed with the commissioner on or before December 12, ***2005***[~~2003~~], or within the time frame prescribed by KRS 342.316(4)(a), whichever is longer. All income or retraining incentive benefits greater than those which would have been awarded were not these new provisions applicable shall be paid by the Kentucky coal workers' pneumoconiosis fund without interest, the provisions of KRS 342.1242 notwithstanding.

(3) The commissioner shall promulgate administrative regulations to effectuate the provisions of this section which shall provide that the administrative law judge may consider the findings and interpretations of x-rays previously taken at university medical schools or x-rays previously subject to the consensus procedure, but that such previously taken x-rays and findings and interpretations thereon shall not be binding on the administrative law judge[

~~(4) Administrative regulations promulgated by the commissioner pursuant to subsections (1) and (2) of this section shall provide that chest X rays previously taken at university medical schools pursuant to KRS 342.315 shall be obtained by the commissioner and forwarded to three (3) randomly selected "B" readers for determination of consensus pursuant to KRS 342.316(3)(b)4.e.. The claim shall be assigned to an administrative law judge for determination of whether the claim should be reopened and the award of additional benefits, if any~~].

Section 4. KRS 342.1241 is amended to read as follows:

(1) The General Assembly finds and declares that the awards of workers' compensation benefits for ***coal-related occupational***[~~coal workers'~~] pneumoconiosis (black lung) have placed a substantial financial burden on all employers of the Commonwealth through the special fund assessments imposed on all employers to cover the liabilities of the special fund.

(2) The General Assembly finds and declares that the purpose of creating the Kentucky Coal Workers' Pneumoconiosis Fund in KRS 342.1242 is to assure that liabilities incurred as a result of workers' compensation awards for ***coal-related occupational***[~~coal workers'~~] pneumoconiosis with dates of last exposure after December 12, 1996, shall be the financial responsibility of employers engaged in severance and processing of coal.

(3) Therefore, it is the intent of the General Assembly in imposing the assessments required in KRS 342.1242(3)(a) and (b) to assure that liabilities incurred as a result of workers' compensation awards for ***coal-related occupational***[~~coal workers'~~] pneumoconiosis with dates of last exposure after December 12, 1996, shall be the financial responsibility of employers engaged in the severance and processing of coal.

Section 5. KRS 342.1242 is amended to read as follows:

(1) There is created the Kentucky coal workers' pneumoconiosis fund which shall have one-half (1/2) of the liability for

income benefits, including retraining benefits, payable for claims brought under KRS 342.732 for last exposure incurred on or after December 12, 1996. Income benefit payments by the Kentucky coal workers' pneumoconiosis fund shall be made contemporaneous with the payments made by the employer, except that the employer shall make all payments due under a final award or approved settlement until the liability of the Kentucky coal workers' pneumoconiosis fund is established under subsection (2) of this section and the coal workers' pneumoconiosis fund shall reimburse the employer for such payments to the extent of its liability.

(2) The employer shall defend any claim brought under KRS 342.732 and upon conclusion shall seek participation in payment of the final award or settlement by the Kentucky coal workers' pneumoconiosis fund by making written request upon the director in the manner prescribed by administrative regulation to be promulgated by the commissioner of the Department of Workers' Claims.

(3) (a) For the purpose of funding and prefunding the liabilities of the Kentucky coal workers' pneumoconiosis fund and financing the administration and operation of the Kentucky coal workers' pneumoconiosis fund, as reflected in the budget of the Commonwealth enacted by the General Assembly, a Kentucky coal workers' pneumoconiosis fund assessment at the rate of three percent (3%) is hereby imposed upon the amount of workers' compensation premiums received on and after January 1, 1997, through December 31, 1997, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4), from employers engaged in the severance or processing of coal. Likewise, on and after January 1, 1997, through December 31, 1997, an assessment at the rate of three percent (3%) of premium shall be paid by every employer engaged in the severance or processing of coal who is carrying his or her own risk.

(b) In addition to the assessment imposed in paragraph (a) of this subsection, an additional Kentucky coal workers' pneumoconiosis fund assessment at the rate of two and one-half cents ($0.025) per ton is hereby imposed upon the total annual amount of tons of coal severed on or after January 1, 1997, through December 31, 1997, by every entity engaged in the severance of coal as required pursuant to KRS Chapter 143.

(c) As of September 1, 1997, and each year thereafter, the funding commission shall determine the assets of the fund and the claim and administrative expense liability incurred by the fund for all previous years and shall establish the rates under the provisions of paragraphs (a) and (b) of this subsection necessary as of January 1 of the next year to fully fund and prefund all claim liabilities and administrative expenses through December 31 of the next year of operations. The assessment rate authorized by this section for premiums received and tons of coal severed shall be set so as to receive fifty percent (50%) of the needed revenue from each assessment. Notice of any rate changes shall be provided no later than December 1 of the year preceding the rate change.

(4) All assessments imposed by this section shall be paid to the Kentucky Workers' Compensation Funding Commission and shall be credited to a separate account within the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission. In addition, the powers and responsibilities of the Kentucky Workers' Compensation Funding Commission including its fiduciary duties and responsibilities relating to assessments collected for the special fund pursuant to KRS 342.122, 342.1222, 342.1223, 342.1226, 342.1229, and 342.1231 shall apply to assessments collected for the Kentucky coal workers' pneumoconiosis fund created pursuant to this section. Each entity subject to assessments for the Kentucky coal workers' pneumoconiosis fund shall provide any and all information requested by the Kentucky Workers' Compensation Funding Commission necessary to carry out its powers and responsibilities relating thereto.

(5) These assessments shall be paid quarterly not later than the thirtieth day of the month following the end of the quarter in which the premium is received or the coal is processed or severed. Receipt shall be considered timely through actual physical receipt or by postmark by the United States Postal Service. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments. Penalty and interest penalties imposed pursuant to KRS 342.1221 and the authority of the Kentucky Workers' Compensation Funding Commission to waive part or all of the penalty shall apply to assessments for the Kentucky coal workers' pneumoconiosis fund in the same manner and amount as they are imposed on assessments for the special fund under KRS 342.122.

(6) Notwithstanding any other provisions of this section or this chapter to the contrary, the total amount of funds collected pursuant to the assessment rates adopted by the funding commission shall not be limited to the provisions of this section.

(7) Claims for benefits by reason of the development of ***coal-related occupational***[~~coal workers'~~] pneumoconiosis shall be maintained pursuant to KRS 342.732, and the Kentucky coal workers' pneumoconiosis fund shall be liable for payment of a part of the liability only for employees of employers engaged in the severance or processing of coal as defined in KRS 342.0011(23)(a) and (b).

Section 6. KRS 342.270 is amended to read as follows:

(1) If the parties fail to reach an agreement in regard to compensation under this chapter, either party may make written application for resolution of claim. The application must be filed within two (2) years after the accident, or, in case of death, within two (2) years after the death, or within two (2) years after the cessation of voluntary payments, if any have been made. When the application is filed by the employee or during the pendency of that claim, he shall join all causes of action against the named employer which have accrued and which are known, or should reasonably be known, to him. Failure to join all accrued causes of action will result in such claims being barred under this chapter as waived by the employee.

(2) [~~Except with respect to claims for benefits by reason of coal workers' pneumoconiosis,~~]The commissioner shall issue notice of the filing to all parties and shall promptly assign the claim to an administrative law judge. The administrative law judge shall facilitate the exchange of information pertinent to the claim pursuant to administrative regulations promulgated by the commissioner. Within forty-five (45) days of the date of issuance of the notice required by this section, the employer or carrier shall file notice of claim denial or acceptance, setting forth specifically those material matters which are admitted, those which are denied, and the basis of any denial of the claim.

(3) Within one hundred twenty (120) days of July 14, 2000, the commissioner shall promulgate administrative regulations establishing procedures for the resolution of claims. The administrative regulations promulgated pursuant to the provisions of this subsection shall be effective on an emergency basis and be applied to all pending claims.

Section 7. The following KRS section is repealed:

342.794 "B" reader list -- Consenus classifications -- Report evaluating physicians on list -- Removal of physicians.

SB 45, AN ACT relating to wages and hours.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.285 is amended to read as follows:

(1) No employer shall employ any of his employees for a work week longer than forty (40) hours, unless such employee receives compensation for his employment in excess of forty (40) hours in a work week at a rate of not less than one and one-half (1-1/2) times the hourly wage rate at which he is employed.

(2) This provision *shall*[~~does~~] not apply to *the following:*

(a) Employees of retail stores engaged in work connected with selling, purchasing, and distributing merchandise, wares, goods, articles, or commodities*;*

(b) [~~or to~~]Employees of restaurant, hotel, and motel operations*;*

(c) [~~, to~~]Employees as defined and exempted from the overtime provision of the Fair Labor Standards Act in Sections 213(b)(1), 213(b)(6), 213(b)(10), and 213(b)(17) of Title 29, U.S.C.*;*

(d) [~~, or to~~]Employees whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private nonprofit childcaring facilities licensed by the Cabinet for Health Services under KRS 199.640 to 199.670*; or*

(e) Any individual who is employed by a third-party employer or agency other than the family or household using his or her services to provide in-home companionship services for a sick, convalescing, or elderly person.

(3) As used in subsection (2) of this section, "companionship services" means those services which provide in-home fellowship, care, and protection for a person who, because of advanced age or physical or mental infirmity, cannot care for his or her own needs. These services may include household work related to the care of the aged or infirm person such as meal preparation, bed making, washing of clothes, and other similar services. They may also include the performance of general household work, provided that the household work is incidental and does not exceed twenty (20%) percent of the total weekly hours worked. The term "companionship services" does not include services relating to the care and protection of the aged or infirm which require and are performed by trained personnel, such as a registered or practical nurse.

(4)[~~(2)~~] Notwithstanding the provisions of subsection (1) of this section or any other chapter of the KRS to the contrary, upon written request by a county employee, made freely and without coercion, pressure, or suggestion by the employer, and upon a written agreement reached between the employer and the county employee before the performance of the work, a county employee who is authorized to work one (1) or more hours in excess of the prescribed hours per week may be granted compensatory leave on an hour-for-hour basis. Upon the written request by a county employee, made freely and without coercion, pressure, or suggestion by the employer, and upon a written agreement reached between the employer and the county employee before the performance of the work, a county employee who is not exempt from the provisions of the Federal Fair Labor Standards Act, 29 U.S.C. et seq., may be granted compensatory time in lieu of overtime pay, at the rate of not less than one and one-half (1-1/2) hours for each hour the county employee is authorized to work in excess of forty (40) hours in a work week.

(5)[~~(3)~~] (a) Upon the request of the county employee, and as provided in subsection *(4)*[~~(2)~~] of this section, compensatory time shall be awarded as follows:

1. A county employee who provided work in excess of forty (40) hours in a public safety activity, an emergency response activity, or a seasonal activity as described in 29 C.F.R. sec. 553.24, may accrue not more than four hundred eighty (480) hours of compensatory time; or

2. A county employee engaged in other work in excess of forty (40) hours, may accrue not more than two hundred forty (240) hours of compensatory time.

(b) A county employee who has accrued four hundred eighty (480) hours of compensatory time off pursuant to paragraph (a)1. of this subsection, or two hundred forty (240) hours of compensatory time off pursuant to paragraph (a)2. of this subsection, shall for additional overtime hours of work, be paid overtime compensation.

(6)[~~(4)~~] A county employee who has accrued compensatory time off as provided in subsection *(4)*[~~(2)~~] of this section, and who requested the use of compensatory time, shall be permitted by the employer to use the compensatory time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the employer. Mere inconvenience to the employer shall not constitute a sufficient basis for denial of a county employee's request for compensatory time off.

(7)[~~(5)~~] If compensation is paid to a county employee for accrued compensatory time off, the compensation shall be paid at the regular rate earned by the county employee at the time the county employee receives the payment.

(8)[~~(6)~~] Upon a county employee's termination of employment, all unused accrued compensatory time shall be paid at a rate of compensation not less than:

(a) The average regular rate received by the county employee during the last three (3) years of the county employee's employment; or

(b) The final regular rate received by the county employee, whichever is higher.

(9)[~~(7)~~] Compensatory time shall not be used as a means to avoid statutory overtime compensation. A county employee shall have the right to use compensatory time earned and shall not be coerced to accept more compensatory time than an employer can realistically and in good faith expect to be able to grant within a reasonable period upon the county employee making the request for compensatory time off.

(10)[~~(8)~~] Nothing in subsections *(4)*[~~(2)~~] to *(9)*[~~(7)~~] of this section shall be construed to supersede any collective bargaining agreement, memorandum of understanding, or any other agreement between the employer and representative of the county employees.

(11)[~~(9)~~] As used in subsections *(4)*[~~(2)~~] to *(9)*[~~(7)~~] of this section, "county employee" means an employee of any county, charter county, consolidated local government, or urban-county government, including an employee of a county elected official.

Section 2. KRS 337.990 is amended to read as follows:

The following civil penalties shall be imposed, in accordance with the provisions in KRS 336.985, for violations of the provisions of this chapter:

(1) Any firm, individual, partnership, or corporation that violates KRS 337.020 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense. Each failure to pay an employee the wages when due him under KRS 337.020 shall constitute a separate offense.

(2) Any employer who violates KRS 337.050 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(3) Any employer who violates KRS 337.055 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense and shall make full payment to the employee by reason of the violation. Each failure to pay an employee the wages as required by KRS 337.055 shall constitute a separate offense.

(4) Any employer who violates KRS 337.060 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) and shall also be liable to the affected employee for the amount withheld, plus interest at the rate of ten percent (10%) per annum.

(5) Any employer who violates the provisions of KRS 337.065 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense and shall make full payment to the employee by reason of the violation.

(6) Any person who fails to comply with KRS 337.070 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense and each day that the failure continues shall be deemed a separate offense.

(7) Any employer who violates any provision of KRS 337.275 to 337.325, KRS 337.345, and KRS 337.385 to 337.405, or willfully hinders or delays the commissioner or his authorized representative in the performance of his duties under KRS 337.295, or fails to keep and preserve any records as required under KRS 337.320 and 337.325, or falsifies any record, or refuses to make any record or transcription thereof accessible to the commissioner or his authorized representative shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000). A civil penalty of not less than one thousand dollars ($1,000) shall be assessed for any subsequent violation of KRS 337.285*(4)*[~~(2)~~] to *(9)*[~~(7)~~] and each day the employer violates KRS 337.285*(4)*[~~(2)~~] to *(9)*[~~(7)~~] shall constitute a separate offense and penalty.

(8) Any employer who pays or agrees to pay wages at a rate less than the rate applicable under KRS 337.275 and 337.285, or any wage order issued pursuant thereto shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(9) Any employer who discharges or in any other manner discriminates against any employee because the employee has made any complaint to his employer, to the commissioner, or to his authorized representative that he has not been paid wages in accordance with KRS 337.275 and 337.285 or regulations issued thereunder, or because the employee has caused to be

instituted or is about to cause to be instituted any proceeding under or related to KRS 337.385, or because the employee has testified or is about to testify in any such proceeding, shall be deemed in violation of KRS 337.275 to 337.325, KRS 337.345, and KRS 337.385 to 337.405 and shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(10) Any employer who violates KRS 337.365 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(11) Any person who violates KRS 337.530 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(12) Any contractor or subcontractor who violates any wage or work hours provision in any contract under KRS 337.505 to 337.550 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense, and the contractor or subcontractor shall make full restitution to all employees to whom he is legally indebted by reason of said violation. The prime contractor shall be jointly and severally liable with a subcontractor for wages due an employee of the subcontractor. For a flagrant or repeated violation the offending contractor or subcontractor shall be barred from bidding on, or working on, any and all public works contracts, either in his name or in the name of any other company, firm, or other entity in which he might be interested for a period of two (2) years from the date of the last offense. Each day of violation shall constitute a separate offense, and the violation as affects each individual worker shall constitute a separate offense.

(13) Any public authority, public official, or member of a public authority who willfully fails to comply or to require compliance with KRS 337.505 to 337.550 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense. Each day of violation shall constitute a separate offense. If a public authority, public official or member of a public authority willfully or negligently fails to comply with KRS 337.505 to 337.550 and the failure results in damages, injury or loss to any person, the public authority, public official, or member of a public authority may be held liable in a civil action.

(14) A person shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) when that person discharges or in any other manner discriminates against an employee because the employee has:

  (a) Made any complaint to his employer, the commissioner, or any other person; or

  (b) Instituted, or caused to be instituted, any proceeding under or related to KRS 337.420 to 337.433; or

  (c) Testified, or is about to testify, in any such proceedings.

The House Committee Substitute to **SB 45** is as follows:

SB 45, AN ACT relating to wages and hours.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.285 is amended to read as follows:

(1) No employer shall employ any of his employees for a work week longer than forty (40) hours, unless such employee receives compensation for his employment in excess of forty (40) hours in a work week at a rate of not less than one and one-half (1-1/2) times the hourly wage rate at which he is employed.

(2) This provision *shall*[~~does~~] not apply to *the following:*

  (a) Employees of retail stores engaged in work connected with selling, purchasing, and distributing merchandise, wares, goods, articles, or commodities*;*

  (b) [~~ or to ~~]Employees of restaurant, hotel, and motel operations*;*

  (c) [~~, to ~~]Employees as defined and exempted from the overtime provision of the Fair Labor Standards Act in Sections 213(b)(1), 213(b)(6), 213(b)(10), and 213(b)(17) of Title 29, U.S.C.*;*

  (d) [~~, or to ~~]Employees whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private nonprofit childcaring facilities licensed by the Cabinet for Health Services under KRS 199.640 to 199.670*; or*

  (e) Any individual who is employed by a third-party employer or agency other than the family or household using his or her services to provide in-home companionship services for a sick, convalescing, or elderly person.

(3) As used in subsection (2) of this section, "companionship services" means those services which provide in-home fellowship, care, and protection for a person who, because of advanced age or physical or mental infirmity, cannot care for his or her own needs. These services may include household work related to the care of the aged or infirm person such as meal preparation, bed making, washing of clothes, and other similar services. They may also include the performance of general household work, provided that the household work is incidental, i.e., does not exceed twenty percent (20%) of the total weekly hours worked. The term "companionship services" does not include services relating to the care and protection of the aged or infirm which require and are performed by trained personnel, such as a registered or practical nurse.

(4)[~~(2)~~] Notwithstanding the provisions of subsection (1) of this section or any other chapter of the KRS to the contrary, upon written request by a county employee, made freely and without coercion, pressure, or suggestion by the employer, and upon a written agreement reached between the employer and the county employee before the performance of the work, a county employee who is authorized to work one (1) or more hours in excess of the prescribed hours per week may be granted compensatory leave on an hour-for-hour basis. Upon the written request by a county employee, made freely and without coercion, pressure, or suggestion by the employer, and upon a written agreement reached between the employer and the county employee before the performance of the work, a county employee who is not exempt from the provisions of the Federal Fair Labor Standards Act, 29 U.S.C. et seq., may be granted compensatory time in lieu of overtime pay, at the rate of not less than one and one-half (1-1/2) hours for each hour the county employee is authorized to work in excess of forty (40) hours in a work week.

(5)[~~(3)~~] (a) Upon the request of the county employee, and as provided in subsection *(4)*[~~(2)~~] of this section, compensatory time shall be awarded as follows:

1. A county employee who provided work in excess of forty (40) hours in a public safety activity, an emergency response activity, or a seasonal activity as described in 29 C.F.R. sec. 553.24, may accrue not more than four hundred eighty (480) hours of compensatory time; or

2. A county employee engaged in other work in excess of forty (40) hours, may accrue not more than two hundred forty (240) hours of compensatory time.

(b) A county employee who has accrued four hundred eighty (480) hours of compensatory time off pursuant to paragraph (a)1. of this subsection, or two hundred forty (240) hours of compensatory time off pursuant to paragraph (a)2. of this subsection, shall for additional overtime hours of work, be paid overtime compensation.

(6)[~~(4)~~] A county employee who has accrued compensatory time off as provided in subsection *(4)*[~~(2)~~] of this section, and who requested the use of compensatory time, shall be permitted by the employer to use the compensatory time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the employer. Mere inconvenience to the employer shall not constitute a sufficient basis for denial of a county employee's request for compensatory time off.

(7)[~~(5)~~] If compensation is paid to a county employee for accrued compensatory time off, the compensation shall be paid at the regular rate earned by the county employee at the time the county employee receives the payment.

(8)[~~(6)~~] Upon a county employee's termination of employment, all unused accrued compensatory time shall be paid at a rate of compensation not less than:

(a) The average regular rate received by the county employee during the last three (3) years of the county employee's employment; or

(b) The final regular rate received by the county employee, whichever is higher.

(9)[~~(7)~~] Compensatory time shall not be used as a means to avoid statutory overtime compensation. A county employee shall have the right to use compensatory time earned and shall not be coerced to accept more compensatory time than an employer can realistically and in good faith expect to be able to grant within a reasonable period upon the county employee making the request for compensatory time off.

(10)[~~(8)~~] Nothing in subsections *(4)*[~~(2)~~] to *(9)*[~~(7)~~] of this section shall be construed to supersede any collective bargaining agreement, memorandum of understanding, or any other agreement between the employer and representative of the county employees.

(11)[~~(9)~~] As used in subsections *(4)*[~~(2)~~] to *(9)*[~~(7)~~] of this section, "county employee" means an employee of any county, charter county, consolidated local government, or urban-county government, including an employee of a county elected official.

Section 2. KRS 337.990 is amended to read as follows:

The following civil penalties shall be imposed, in accordance with the provisions in KRS 336.985, for violations of the provisions of this chapter:

(1) Any firm, individual, partnership, or corporation that violates KRS 337.020 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense. Each failure to pay an employee the wages when due him under KRS 337.020 shall constitute a separate offense.

(2) Any employer who violates KRS 337.050 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(3) Any employer who violates KRS 337.055 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense and shall make full payment to the employee by reason of the violation. Each failure to pay an employee the wages as required by KRS 337.055 shall constitute a separate offense.

(4) Any employer who violates KRS 337.060 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) and shall also be liable to the affected employee for the amount withheld, plus interest at the rate of ten percent (10%) per annum.

(5) Any employer who violates the provisions of KRS 337.065 shall be assessed a civil penalty of not less than one hundred

dollars ($100) nor more than one thousand dollars ($1,000) for each offense and shall make full payment to the employee by reason of the violation.

(6) Any person who fails to comply with KRS 337.070 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense and each day that the failure continues shall be deemed a separate offense.

(7) Any employer who violates any provision of KRS 337.275 to 337.325, KRS 337.345, and KRS 337.385 to 337.405, or willfully hinders or delays the commissioner or his authorized representative in the performance of his duties under KRS 337.295, or fails to keep and preserve any records as required under KRS 337.320 and 337.325, or falsifies any record, or refuses to make any record or transcription thereof accessible to the commissioner or his authorized representative shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000). A civil penalty of not less than one thousand dollars ($1,000) shall be assessed for any subsequent violation of KRS 337.285*(4)*[~~(2)~~] to *(9)*[~~(7)~~] and each day the employer violates KRS 337.285*(4)*[~~(2)~~] to *(9)*[~~(7)~~] shall constitute a separate offense and penalty.

(8) Any employer who pays or agrees to pay wages at a rate less than the rate applicable under KRS 337.275 and 337.285, or any wage order issued pursuant thereto shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(9) Any employer who discharges or in any other manner discriminates against any employee because the employee has made any complaint to his employer, to the commissioner, or to his authorized representative that he has not been paid wages in accordance with KRS 337.275 and 337.285 or regulations issued thereunder, or because the employee has caused to be instituted or is about to cause to be instituted any proceeding under or related to KRS 337.385, or because the employee has testified or is about to testify in any such proceeding, shall be deemed in violation of KRS 337.275 to 337.325, KRS 337.345, and KRS 337.385 to 337.405 and shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(10) Any employer who violates KRS 337.365 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(11) Any person who violates KRS 337.530 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(12) Any contractor or subcontractor who violates any wage or work hours provision in any contract under KRS 337.505 to 337.550 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense, and the contractor or subcontractor shall make full restitution to all employees to whom he is legally indebted by reason of said violation. The prime contractor shall be jointly and severally liable with a subcontractor for wages due an employee of the subcontractor. For a flagrant or repeated violation the offending contractor or subcontractor shall be barred from bidding on, or working on, any and all public works contracts, either in his name or in the name of any other company, firm, or other entity in which he might be interested for a period of two (2) years from the date of the last offense. Each day of violation shall constitute a separate offense, and the violation as affects each individual worker shall constitute a separate offense.

(13) Any public authority, public official, or member of a public authority who willfully fails to comply or to require compliance with KRS 337.505 to 337.550 shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense. Each day of violation shall constitute a separate offense. If a public authority, public official or member of a public authority willfully or negligently fails to comply with KRS 337.505 to 337.550 and the failure results in damages, injury or loss to any person, the public authority, public official, or member of a public authority may be held liable in a civil action.

(14) A person shall be assessed a civil penalty of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) when that person discharges or in any other manner discriminates against an employee because the employee has:

  (a) Made any complaint to his employer, the commissioner, or any other person; or

  (b) Instituted, or caused to be instituted, any proceeding under or related to KRS 337.420 to 337.433; or

  (c) Testified, or is about to testify, in any such proceedings.

The Committee on State Government reported **HB 290**, with Committee Substitute attached thereto, **HB 512**, with Committee Substitute and Committee Amendment attached thereto, **HB 519**, with Committee Substitute attached thereto, **HB 528**, **HB 535**, with Committee Substitute attached thereto, and **HB 549** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 290, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.577 is amended to read as follows:

(1) Upon retirement at early retirement date, a member may receive an annual retirement allowance payable monthly during

his lifetime which shall be determined in the same manner as for retirement at his normal retirement date, with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.

(2) There shall be no reduction in the retirement allowance of a member who has twenty (20) or more years of service credit, at least fifteen (15) of which are current service.

(3) A member whose participation begins on or after August 1, 2004, shall not be eligible to retire under subsection (2) of this section until the member has attained age fifty (50).

Section 2. KRS 16.582 is amended to read as follows:

(1) (a) Total and permanent disability means a disability which results in the member's incapacity to engage in any occupation for remuneration or profit. Loss by severance of both hands at or above the wrists, or both feet at or above the ankles, or one (1) hand above the wrist and one (1) foot above the ankle, or the complete, irrevocable loss of the sight of both eyes shall be considered as total and permanent.

(b) Hazardous disability means a disability which results in the member's total incapacity to continue as a regular full-time officer or as an employee in a hazardous position, as defined in KRS 61.592, but which does not result in the member's total and permanent incapacity to engage in other occupations for remuneration or profit.

(c) In determining whether the disability meets the requirement of this section, any reasonable accommodation provided by the employer as provided in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 shall be considered.

(d) If the board determines that the total and permanent disability of a member receiving a retirement allowance under this section has ceased, then the board shall determine if the member has a hazardous disability.

(2) Any person may qualify to retire on disability, subject to the following:

(a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The service requirement shall be waived if the disability is a total and permanent disability or a hazardous disability and is a direct result of an act in line of duty;

(b) The person shall not be eligible for an unreduced retirement allowance;

(c) The person's application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment, as defined in KRS 16.505, as a regular full-time officer or in a regular full-time hazardous position under KRS 61.592;

(d) The person shall receive a satisfactory determination pursuant to KRS 61.665; and

(e) A person's disability application based on the same claim of incapacity shall be accepted and reconsidered for disability if accompanied by new objective medical evidence. The application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment as a regular full-time officer or in a regular full-time hazardous position.

(3) Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:

(a) The incapacity results from bodily injury, mental illness, or disease. For purposes of this section, "injury" means any physical harm or damage to the human organism other than disease or mental illness;

(b) The incapacity is deemed to be permanent; and

(c) The incapacity does not result directly or indirectly from:

1. Injury intentionally self-inflicted while sane or insane;

2. Injury or disease resulting from military service; or

3. Bodily injury, mental illness, disease, or condition which pre-existed membership in the system or reemployment, whichever is most recent, unless:

a. The disability results from bodily injury, mental illness, disease, or a condition which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or

b. The person has at least sixteen (16) years' current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems.

For purposes of this subparagraph, "reemployment" shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems with no loss of service credit.

(4) (a) 1. An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a position as regular full-time officer or a hazardous position.

2. The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.

(b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.

(c) The person's physical exertion requirements shall be determined based on the following standards:

1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers, and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.

2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.

3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.

4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.

5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.

(5) The disability retirement allowance shall be determined as provided in KRS 16.576, subject to the following:

(a) If the member's total service credit on his last day of paid employment in a regular full-time position is less than twenty (20) years, service shall be added beginning with his last date of paid employment and continuing to his fifty-fifth birthday. The maximum service credit added shall not exceed the total service the member had on his last day of paid employment, and the maximum service credit for calculating his retirement allowance, including his total service and service added under this section, shall not exceed twenty (20) years;

(b) If the member's total service credit on his last day of paid employment is twenty (20) or more years, then his total service credit shall be used.

(c) For a member whose participation begins on or after August 1, 2004, the disability retirement allowance shall be the higher of twenty-five percent (25%) of the member's monthly final rate of pay or the retirement allowance determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his disability.

(6) If the member receives a satisfactory determination of total and permanent disability or hazardous disability pursuant to KRS 61.665 and the disability is the direct result of an act in line of duty, the member's retirement allowance shall be calculated as follows:

(a) For the disabled member, benefits as provided in subsection (5) of this section except that the monthly retirement allowance payable shall not be less than twenty-five percent (25%) of the member's monthly final rate of pay; and

(b) For each dependent child of the member on his disability retirement date, who is alive at the time any particular payment is due, a monthly payment equal to ten percent (10%) of the disabled member's monthly final rate of pay; however, total maximum dependent children's benefit shall not exceed forty percent (40%) of the member's monthly final rate of pay. The payments shall be payable to each dependent child, or to a legally appointed guardian or as directed by the system.

(7) No benefit provided in this section shall be reduced as a result of any change in the extent of disability of any retired member who is age fifty-five (55) or older.

(8) If a regular full-time officer or hazardous position member has been approved for benefits under a hazardous disability, the board shall, upon request of the member, permit the member to receive the hazardous disability allowance while accruing benefits in a nonhazardous position, subject to proper medical review of the nonhazardous position's job description by the system's medical examiner.

(9) For a member of the State Police Retirement System, in lieu of the allowance provided in subsection (5) or (6) of this

section, the member may be retained on the regular payroll and receive the compensation authorized by KRS 16.165, if he is qualified.

Section 3. KRS 61.5525 is amended to read as follows:

(1) Effective July 1, 2001, purchase of service under the provisions of KRS 16.505 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852, except as provided in subsection (2) of this section, shall be determined by multiplying the higher of the employee's current rate of pay, final rate of pay, or final compensation as of the end of the month in which the purchase is made times the actuarial factor times the number of years of service being purchased.

(2) This provision shall not apply to KRS 61.552(1) and (23), or KRS 61.592(3)(c).

(3) For member whose participation begins on or after August 1, 2004, service purchased under the provisions of KRS 16.505 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852, except for service purchased under subsections (1) and (23) of KRS 61.552, shall not be used to determine eligibility for or the amount of the monthly insurance contribution under Section 7 of this Act.

(4) For a member whose participation begins on or after August 1, 2004, service purchased under the provisions of KRS 16.505 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852, except for service purchased under subsections (1) and (23) of KRS 61.552, shall not be used to determine eligibility for a retirement allowance under disability retirement, early retirement, normal retirement, or death under any of the provisions of KRS 16.505 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852. Purchased service shall only be used to determine the amount of the retirement allowance of a member who is eligible for a retirement allowance under disability, early retirement, normal retirement, or death under any of the provisions of KRS 16.505 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852, based on service earned as a participating employee.

Section 4. KRS 61.559 is amended to read as follows:

(1) In lieu of any other benefits due under KRS 61.510 to 61.705 and KRS 78.520 to 78.852, a member who has attained the age of sixty-five (65) and who has obtained at least one (1) month of service credit but no more than forty-seven (47) months of service may elect to receive an annual retirement allowance payable monthly or less frequently, as determined by the board, which shall be determined by multiplying his accumulated contributions by two (2) and converting this amount to an annual retirement allowance based on an annuity rate adopted by the board which would pay the actuarial equivalent of twice his accumulated contributions over the lifetime of the retired member.

(2) A member sixty-five (65) years of age or older is eligible for a retirement allowance determined under KRS 61.595 provided such member has forty-eight (48) months of service, at least twelve (12) of which are current service, or a retirement allowance determined under KRS 61.595 prior to age sixty-five (65) provided:

(a) The member has attained age fifty-five (55) and has service of sixty (60) months at least twelve (12) of which are current service; or

(b) The member is a retired member of the State Police Retirement System, has attained age fifty-five (55), and has service of forty-eight (48) months at least twelve (12) of which are current service; or

(c) The member is less than age fifty-five (55) and has twenty-five (25) or more years of service, at least fifteen (15) of which are current service; or

(d) The member~~[has thirty (30) or more years of service at least fifteen (15) of which are current service, or the member of the Kentucky Employees Retirement System or the County Employees Retirement System]~~ has twenty-seven (27) or more years of service, at least fifteen (15) of which are current service; or

(e) The member of the Kentucky Employees Retirement System has, at least, twenty-six (26) years of service credit, at least sixteen (16) of which are current consecutive years of service as a cabinet secretary or administrative head of one (1) of the three (3) branches of government; or

(f) The member has attained age fifty-five (55) and was an employee of a parted employer at the time his employer became ineligible to continue participation in the system, and his service in the system when added to his service with the parted employer subsequent to his separation from state government equals the early retirement service eligibility requirement of the system on the date his employer became ineligible to continue participation in the system.

(3) A member whose participation begins on or after August 1, 2004, shall not be eligible to retire under paragraphs (c) and (d) of subsection (2) of this section until the member has attained age fifty-five (55).

Section 5. KRS 61.595 is amended to read as follows:

(1) Effective July 1, 1990, upon retirement at normal retirement date or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) for the County Employees Retirement System and one and ninety-seven hundredths percent (1.97%) for the Kentucky Employees Retirement System of final compensation multiplied by the number of years of service credit, except that:

(a) Effective February 1, 1999, a member of the Kentucky Employees Retirement System who was participating in one of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, shall receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two percent (2%) of final compensation multiplied by the number of years of service credit. Any Kentucky Employees Retirement System member whose effective date of retirement is between February 1, 1999, and January 31, 2009, and who has at least twenty (20) years of service credit in one of the state-administered retirement systems and who was participating in one of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, shall receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) of final compensation multiplied by the number of years of service credit. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account;

(b) ***For a member of the County Employees Retirement System whose participation begins on or after August 1, 2004, the annual retirement allowance upon retirement at normal retirement date or later shall be equal to one and ninety-seven hundredths percent (1.97%) of final compensation multiplied by the number of years of service credit and shall be payable monthly during his lifetime.***

(c) The annual normal retirement allowance for members of the General Assembly, who serve during the 1974 or 1976 General Assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than two hundred forty dollars ($240) multiplied by the number of years of service as a member of the General Assembly;

(d)[~~(c)~~]The annual normal retirement allowance for members of the General Assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 General Assembly for legislative service prior to January 1, 1974;

(e)[~~(d)~~]Former members of the General Assembly who have eight (8) or more years of legislative service prior to the 1976 Regular Session are eligible for an increased retirement allowance of two hundred forty dollars ($240) times the years of legislative service, if the member pays to the Kentucky Employees Retirement System thirty-five percent (35%) of the actuarial cost of the higher benefit, as determined by the system, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five percent (65%) of the computed actuarial cost shall be paid from the State Treasury to the Kentucky Employees Retirement System upon presentation of a properly documented claim to the Finance and Administration Cabinet. If any member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph, and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;

(f)[~~(e)~~] The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky Employees Retirement System, at least one (1) of which is current service, shall not be less than five hundred twelve dollars ($512); and

(g)[~~(f)~~] The annual retirement allowance for a member of the Kentucky employees retirement system or County Employees Retirement System shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(2) (a) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.

(b) A member of the Kentucky Employees Retirement System or the County Employees Retirement System who has twenty-seven (27) or more years of service credit, at least fifteen (15) of which are current service, may retire with no reduction in the retirement allowance. A member who has earned vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education, the Council on Postsecondary Education, or the Higher Education Assistance Authority, may count the vested service toward attaining the necessary years of service credit as provided in KRS 61.559(2)(c) and (d) to qualify for a retirement allowance. The credit from a Kentucky institution of higher education, the Council on Postsecondary Education, or the Higher Education Assistance Authority shall not be used toward the minimum fifteen (15) years of current service required by KRS 61.559(2)(c) and (d) or to calculate his retirement allowance pursuant to this section. The provisions of this paragraph shall not be construed to limit the use of Teachers' Retirement System credit pursuant to KRS 61.680(2)(a).

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the State Treasurer shall be requested to issue the initial retirement payment.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is two dollars

($2) greater or less than the amount of the initial retirement payment. If the member or beneficiary chose an actuarial equivalent refund payment option, the amount of estimated retirement allowance shall be the official retirement allowance unless the new calculation produces an amount which is one hundred dollars ($100) greater or less than the amount of the initial retirement payment.

Section 6. KRS 61.605 is amended to read as follows:

(1) Upon disability retirement, an employee may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his disability except that service credit shall be added to the employee's total service beginning with his last date of paid employment and continuing to his sixty-fifth birthday; however, the maximum service credit added shall not exceed the total service the employee had upon his last day of paid employment, and the maximum combined service credit for calculating his disability retirement allowance, including total service and added service shall not exceed twenty-five (25) years. If, however, an employee has accumulated twenty-five (25) or more years of total service, he shall receive added service necessary to bring his combined service credit, including total and added service, to twenty-seven (27) years.

(2) For a member whose participation begins on or after August 1, 2004, the disability retirement allowance shall be the higher of twenty percent (20%) of the member's monthly final rate of pay or the retirement allowance determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his disability.

Section 7. KRS 61.702 is amended to read as follows:

(1) (a) The board of trustees of Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System, except as provided in subsection (8) of this section. The board shall also arrange to provide health care coverage by health maintenance organizations, as defined in KRS 18A.225, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section. Any person who chooses coverage by a health maintenance organization shall pay, by payroll deduction from the retirement allowance or by another method, the difference in premium between the cost of health maintenance organization coverage and the benefits to which he would be entitled under this section.

(b) The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems to be included in the state employees' group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status, except as provided in subsection (8) of this section. Notwithstanding the provisions of any other statute, recipients shall be included in the same class as current state employees in determining medical insurance policies and premiums.

(c) For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status, the board shall provide a medical insurance reimbursement plan as described in subsection (7) of this section.

(2) Each employer participating in the State Police Retirement System as provided for in KRS 16.510 to 16.652, each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute to the Kentucky Retirement Systems insurance fund the amount necessary to provide hospital and medical insurance as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate to each respective retirement system determined under KRS 61.565.

(3) (a) The premium required to provide hospital and medical benefits under this section shall be paid:

1. Wholly or partly from funds contributed by the recipient of a retirement allowance, by payroll deduction, or otherwise;

2. Wholly or partly from funds contributed by the Kentucky Retirement Systems insurance fund;

3. Wholly or partly from funds contributed by another state-administered retirement system under a reciprocal arrangement, except that any portion of the premium paid from the Kentucky Retirement Systems insurance fund under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the member's service were in one (1) of the systems administered by the Kentucky Retirement Systems;

4. Partly from subparagraphs 1., 2., or 3., except that any premium for hospital and medical insurance over the amount contributed by the Kentucky Retirement Systems insurance fund or another state-administered retirement system under a reciprocal agreement shall be paid by the recipient. If the board provides for cross-referencing of insurance premiums, the employer's contribution for the working member or spouse shall be applied toward the premium, and the Kentucky Retirement Systems insurance fund shall pay the balance, not to exceed the monthly contribution.

5. In full from the Kentucky Retirement Systems insurance fund for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) and had two hundred and forty (240) months or more of service upon retirement. Should such recipient have less than two hundred forty (240) months of service but have at least one hundred eighty (180) months of service, seventy-five percent (75%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. Notwithstanding the foregoing provisions of this subsection, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who becomes disabled in the line of duty as defined in KRS 16.505(19) or KRS 61.621, shall have his premium paid in full as if he had two hundred forty (240) months or more of service. Further, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who is killed in the line of duty as defined in KRS 16.505(19) or KRS 61.621, shall have the premium for the beneficiary, if the beneficiary is the member's spouse, and for each dependent child paid so long as they individually remain eligible for a monthly retirement benefit. "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3) retirement systems, except service added to determine disability benefits shall not be counted as "months of service."

(b) For a member electing insurance coverage through the Kentucky Retirement Systems, "months of service" shall include, in addition to service as described in paragraph (a) of this subsection, service credit in one of the other state-administered retirement plans.

1. Effective August 1, 1998, the Kentucky Retirement Systems shall compute the member's combined service, including service credit in another state-administered retirement plan, and calculate the portion of the member's premium to be paid by the insurance fund, according to the criteria established in paragraph (a) of this subsection. Each state-administered retirement plan annually shall pay to the insurance fund the percentage of the system's cost of the retiree's monthly contribution for single coverage for hospital and medical insurance which shall be equal to the percentage of the member's number of months of service in the other state-administered retirement plan divided by his total combined service. The amounts paid by the other state-administered retirement plans and the insurance fund shall not be more than one hundred percent (100%) of the monthly contribution adopted by the respective boards of trustees.

2. A member may not elect coverage for hospital and medical benefits under this subsection through more than one (1) of the state-administered retirement plans.

3. A state-administered retirement plan shall not pay any portion of a member's monthly contribution for medical insurance unless the member is a recipient or annuitant of the plan.

(4) (a) Group rates under the hospital and medical insurance plan shall be made available to the spouse, dependents, and disabled children, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the premium for the spouse, dependent, disabled child, or beneficiary hospital and medical insurance is paid by payroll deduction from the retirement allowance or by another method. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(b) The other provisions of this section notwithstanding, the insurance fund shall pay a percentage of the monthly contribution for the spouse and dependents of a recipient who was a member of the General Assembly and is receiving a retirement allowance based on General Assembly service, of the Kentucky Employees Retirement System and determined to be in a hazardous position, of the County Employees Retirement System, and determined to be in a hazardous position or of the State Police Retirement System, or the beneficiary of the member, if the member designated only one (1) person as beneficiary. The percentage of the monthly contribution paid for the spouse and dependents of a recipient who was in a hazardous position shall be based solely on the member's service with the State Police Retirement System or service in a hazardous position using the formula in subsection (3)(a) of this section, except that for any recipient of a retirement allowance from the County Employees Retirement System who was contributing to the system on January 1, 1998, for service in a hazardous position, the percentage of the monthly contribution shall be based on the total of hazardous service and any nonhazardous service as a police or firefighter with the same agency, if that agency was participating in the County Employees Retirement System but did not offer hazardous duty coverage for its police and firefighters at the time of initial participation.

(c) The insurance fund shall continue the same level of coverage for a recipient who was a member of the County Employees Retirement System after the age of sixty-five (65) as before the age of sixty-five (65), if the recipient is not eligible for Medicare coverage. If the insurance fund provides coverage for the spouse or dependents or beneficiary of a former member of the County Employees Retirement System, the insurance fund shall continue the same level of coverage for the spouse or dependent or beneficiary after the age of sixty-five (65) as before the age of sixty-five (65), if the spouse or dependent or beneficiary is not eligible for Medicare coverage.

(5) After July 1, 1998, notwithstanding any other provision to the contrary, a member who holds a judicial office but did not elect to participate in the Judicial Retirement Plan and is participating instead in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System, as provided in KRS 61.680, and who has at least twenty (20) years of total service, one-half (1/2) of which is in a judicial office, shall receive the same hospital and medical insurance benefits, including paid benefits for spouse and dependents, as provided to persons retiring under the provisions of KRS 21.427. The Administrative Office of the Courts shall pay the cost of the medical insurance benefits provided by this subsection.

(6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

(7) The board shall promulgate an administrative regulation to establish a medical insurance reimbursement plan to provide reimbursement for hospital and medical insurance premiums of recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky and having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance at the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly premium determined under subsection (3) of this section. The plan shall not be made available if all recipients are eligible for the same coverage as recipients living in Kentucky.

(8) For employees hired on or after July 1, 2003, participation in the insurance benefits provided under this section shall not be allowed until the employee has earned at least one hundred twenty (120) months of service in the state-administered retirement systems. An employee who earns at least one hundred twenty (120) months of service in the state-administered retirement systems shall be eligible for benefits determined using the formula in subsection (3) of this section for a recipient with one hundred twenty (120) or more months of service. The one hundred twenty (120) months of service requirement shall be waived for a member who is disabled or killed in the line of duty as defined in KRS 16.505(19) or KRS 61.621, and the member or his beneficiary shall be entitled to the benefits payable under subparagraph (3)(a)5. of this section. The benefits of this subsection as provided on July 1, 2003, and thereafter shall not be considered as benefits protected by the inviolable contract provisions of KRS 61.692, 16.652, and 78.852. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in their judgment the welfare of the Commonwealth so demands.

(9) For a member whose participation begins on or after July 1, 2004, participation in the insurance benefits provided under this section shall not be allowed until the employee has earned at least one hundred twenty (120) months of service in the state-administered retirement systems.

(a) An employee who earns at least one hundred twenty (120) months of service in the state-administered retirement systems shall be eligible for benefits as follows:

1. For employees who are not in a hazardous position, a monthly insurance contribution of ten dollars ($10) for each year of service as a participating employee.

2. For employees who are in a hazardous position or who participate in the State Police Retirement System, a monthly insurance contribution of fifteen dollars ($15) for each year of service as a participating employee in a hazardous position or as a participating member of the State Police Retirement System. Upon the death of the retired member, the beneficiary, if the beneficiary is the member's spouse, shall be entitled to a monthly insurance contribution of ten dollars ($10) for each year of service the member attained as a participating employee in a hazardous position or as a participating member of the State Police Retirement System.

(b) The one hundred twenty (120) months of service requirement shall be waived for a member who is disabled or killed in the line of duty as defined in KRS 16.505(19) or KRS 61.621, and the member or his beneficiary shall be entitled to the benefits payable under this subsection as though the member had twenty (20) years of service in a hazardous position.

(c) The monthly insurance contribution amount shall be increased July 1 of each year by the percentage change in the annual average of the consumer price index for all urban consumers for the most recent calendar year as published by the federal Bureau of Labor Statistics, not to exceed five percent (5%). The increase shall be cumulative and shall continue to accrue after the member's retirement for as long as a monthly insurance contribution is payable to the retired member or beneficiary.

(d) The benefits of this subsection as provided on July 1, 2004, and thereafter shall not be considered as benefits protected by the inviolable contract provisions of KRS 61.692, 16.652, and 78.852. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in its judgment the welfare of the Commonwealth so demands.

The Committee Substitute to **HB 290** is as follows:

HB 290, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.582 is amended to read as follows:

(1) (a) Total and permanent disability means a disability which results in the member's incapacity to engage in any occupation for remuneration or profit. Loss by severance of both hands at or above the wrists, or both feet at or above the ankles, or one (1) hand above the wrist and one (1) foot above the ankle, or the complete, irrevocable loss of the sight of both eyes shall be considered as total and permanent.

(b) Hazardous disability means a disability which results in the member's total incapacity to continue as a regular full-time officer or as an employee in a hazardous position, as defined in KRS 61.592, but which does not result in the member's total and permanent incapacity to engage in other occupations for remuneration or profit.

(c) In determining whether the disability meets the requirement of this section, any reasonable accommodation provided by the employer as provided in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 shall be considered.

(d) If the board determines that the total and permanent disability of a member receiving a retirement allowance under this section has ceased, then the board shall determine if the member has a hazardous disability.

(2) Any person may qualify to retire on disability, subject to the following:

(a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The service requirement shall be waived if the disability is a total and permanent disability or a hazardous disability and is a direct result of an act in line of duty;

(b) The person shall not be eligible for an unreduced retirement allowance;

(c) The person's application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment, as defined in KRS 16.505, as a regular full-time officer or in a regular full-time hazardous position under KRS 61.592;

(d) The person shall receive a satisfactory determination pursuant to KRS 61.665; and

(e) A person's disability application based on the same claim of incapacity shall be accepted and reconsidered for disability if accompanied by new objective medical evidence. The application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment as a regular full-time officer or in a regular full-time hazardous position.

(3) Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:

(a) The incapacity results from bodily injury, mental illness, or disease. For purposes of this section, "injury" means any physical harm or damage to the human organism other than disease or mental illness;

(b) The incapacity is deemed to be permanent; and

(c) The incapacity does not result directly or indirectly from:

1. Injury intentionally self-inflicted while sane or insane;

2. Injury or disease resulting from military service; or

3. Bodily injury, mental illness, disease, or condition which pre-existed membership in the system or reemployment, whichever is most recent, unless:

a. The disability results from bodily injury, mental illness, disease, or a condition which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or

b. The person has at least sixteen (16) years' current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems.

For purposes of this subparagraph, "reemployment" shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems with no loss of service credit.

(4) (a) 1. An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a position as regular full-time officer or a hazardous position.

2. The determination of a permanent incapacity shall be based on the medical evidence contained in the

member's file and the member's residual functional capacity and physical exertion requirements.

(b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.

(c) The person's physical exertion requirements shall be determined based on the following standards:

1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers, and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.

2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.

3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.

4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.

5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.

(5) The disability retirement allowance shall be determined as provided in KRS 16.576, subject to the following:

(a) If the member's total service credit on his last day of paid employment in a regular full-time position is less than twenty (20) years, service shall be added beginning with his last date of paid employment and continuing to his fifty-fifth birthday. The maximum service credit added shall not exceed the total service the member had on his last day of paid employment, and the maximum service credit for calculating his retirement allowance, including his total service and service added under this section, shall not exceed twenty (20) years;

(b) If the member's total service credit on his last day of paid employment is twenty (20) or more years, then his total service credit shall be used.

(c) For a member whose participation begins on or after August 1, 2004, the disability retirement allowance shall be the higher of twenty-five percent (25%) of the member's monthly final rate of pay or the retirement allowance determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his disability.

(6) If the member receives a satisfactory determination of total and permanent disability or hazardous disability pursuant to KRS 61.665 and the disability is the direct result of an act in line of duty, the member's retirement allowance shall be calculated as follows:

(a) For the disabled member, benefits as provided in subsection (5) of this section except that the monthly retirement allowance payable shall not be less than twenty-five percent (25%) of the member's monthly final rate of pay; and

(b) For each dependent child of the member on his disability retirement date, who is alive at the time any particular payment is due, a monthly payment equal to ten percent (10%) of the disabled member's monthly final rate of pay; however, total maximum dependent children's benefit shall not exceed forty percent (40%) of the member's monthly final rate of pay. The payments shall be payable to each dependent child, or to a legally appointed guardian or as directed by the system.

(7) No benefit provided in this section shall be reduced as a result of any change in the extent of disability of any retired member who is age fifty-five (55) or older.

(8) If a regular full-time officer or hazardous position member has been approved for benefits under a hazardous disability, the board shall, upon request of the member, permit the member to receive the hazardous disability allowance while accruing benefits in a nonhazardous position, subject to proper medical review of the nonhazardous position's job description by the

system's medical examiner.

(9) For a member of the State Police Retirement System, in lieu of the allowance provided in subsection (5) or (6) of this section, the member may be retained on the regular payroll and receive the compensation authorized by KRS 16.165, if he is qualified.

Section 2. KRS 61.5525 is amended to read as follows:

(1) Effective July 1, 2001, purchase of service under the provisions of KRS 16.505 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852, except as provided in subsection (2) of this section, shall be determined by multiplying the higher of the employee's current rate of pay, final rate of pay, or final compensation as of the end of the month in which the purchase is made times the actuarial factor times the number of years of service being purchased.

(2) This provision shall not apply to KRS 61.552(1) and (23), or KRS 61.592(3)(c).

(3) Service purchased on or after August 1, 2004, under the provisions of KRS 16.505 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852, except for service purchased under subsections (1) and (23) of KRS 61.552, shall not be used to determine eligibility for or the amount of the monthly insurance contribution under Section 5 of this Act.

(4) For a member whose participation begins on or after August 1, 2004, service purchased under the provisions of KRS 16.505 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852, except for service purchased under subsections (1) and (23) of KRS 61.552, shall not be used to determine eligibility for a retirement allowance under disability retirement, early retirement, normal retirement, or death under any of the provisions of KRS 16.505 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852. Purchased service shall only be used to determine the amount of the retirement allowance of a member who is eligible for a retirement allowance under disability, early retirement, normal retirement, or death under any of the provisions of KRS 16.505 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852, based on service earned as a participating employee.

Section 3. KRS 61.595 is amended to read as follows:

(1) Effective July 1, 1990, upon retirement at normal retirement date or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) for the County Employees Retirement System and one and ninety-seven hundredths percent (1.97%) for the Kentucky Employees Retirement System of final compensation multiplied by the number of years of service credit, except that:

(a) Effective February 1, 1999, a member of the Kentucky Employees Retirement System who was participating in one of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, shall receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two percent (2%) of final compensation multiplied by the number of years of service credit. Any Kentucky Employees Retirement System member whose effective date of retirement is between February 1, 1999, and January 31, 2009, and who has at least twenty (20) years of service credit in one of the state-administered retirement systems and who was participating in one of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, shall receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) of final compensation multiplied by the number of years of service credit. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account;

(b) ***For a member of the County Employees Retirement System whose participation begins on or after August 1, 2004, the annual retirement allowance upon retirement at normal retirement date or later shall be equal to two percent (2%) of final compensation multiplied by the number of years of service credit and shall be payable monthly during his lifetime.***

(c) The annual normal retirement allowance for members of the General Assembly, who serve during the 1974 or 1976 General Assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than two hundred forty dollars ($240) multiplied by the number of years of service as a member of the General Assembly;

(d)~~[(c)]~~The annual normal retirement allowance for members of the General Assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 General Assembly for legislative service prior to January 1, 1974;

(e)~~[(d)]~~Former members of the General Assembly who have eight (8) or more years of legislative service prior to the 1976 Regular Session are eligible for an increased retirement allowance of two hundred forty dollars ($240) times the years of legislative service, if the member pays to the Kentucky Employees Retirement System thirty-five percent (35%) of the actuarial cost of the higher benefit, as determined by the system, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five percent (65%) of the computed actuarial cost shall be paid from the State Treasury to the Kentucky Employees Retirement System upon presentation of a properly documented claim to the Finance and Administration Cabinet. If any member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph, and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;

(f)[~~(e)~~] The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky Employees Retirement System, at least one (1) of which is current service, shall not be less than five hundred twelve dollars ($512); and

(g)[~~(f)~~] The annual retirement allowance for a member of the Kentucky employees retirement system or County Employees Retirement System shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(2) (a) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.

(b) A member of the Kentucky Employees Retirement System or the County Employees Retirement System who has twenty-seven (27) or more years of service credit, at least fifteen (15) of which are current service, may retire with no reduction in the retirement allowance. A member who has earned vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education, the Council on Postsecondary Education, or the Higher Education Assistance Authority, may count the vested service toward attaining the necessary years of service credit as provided in KRS 61.559(2)(c) and (d) to qualify for a retirement allowance. The credit from a Kentucky institution of higher education, the Council on Postsecondary Education, or the Higher Education Assistance Authority shall not be used toward the minimum fifteen (15) years of current service required by KRS 61.559(2)(c) and (d) or to calculate his retirement allowance pursuant to this section. The provisions of this paragraph shall not be construed to limit the use of Teachers' Retirement System credit pursuant to KRS 61.680(2)(a).

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the State Treasurer shall be requested to issue the initial retirement payment.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is two dollars ($2) greater or less than the amount of the initial retirement payment. If the member or beneficiary chose an actuarial equivalent refund payment option, the amount of estimated retirement allowance shall be the official retirement allowance unless the new calculation produces an amount which is one hundred dollars ($100) greater or less than the amount of the initial retirement payment.

Section 4. KRS 61.605 is amended to read as follows:

(1) Upon disability retirement, an employee may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his disability except that service credit shall be added to the employee's total service beginning with his last date of paid employment and continuing to his sixty-fifth birthday; however, the maximum service credit added shall not exceed the total service the employee had upon his last day of paid employment, and the maximum combined service credit for calculating his disability retirement allowance, including total service and added service shall not exceed twenty-five (25) years. If, however, an employee has accumulated twenty-five (25) or more years of total service, he shall receive added service necessary to bring his combined service credit, including total and added service, to twenty-seven (27) years.

(2) For a member whose participation begins on or after August 1, 2004, the disability retirement allowance shall be the higher of twenty percent (20%) of the member's monthly final rate of pay or the retirement allowance determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his disability.

Section 5. KRS 61.702 is amended to read as follows:

(1) (a) The board of trustees of Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System, except as provided in subsection (8) of this section. The board shall also arrange to provide health care coverage by health maintenance organizations, as defined in KRS 18A.225, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section. Any person who chooses coverage by a health maintenance organization shall pay, by payroll deduction from the retirement allowance or by another method, the difference in premium between the cost of health maintenance organization coverage and the benefits to which he would be entitled under this section.

(b) The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems to be included in the state employees' group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status, except as provided in subsection (8) of this section. Notwithstanding the provisions of any other statute, recipients shall be included in the same class as current state employees in determining medical insurance policies and premiums.

(c) For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status, the board shall provide a medical insurance reimbursement plan as described in subsection (7) of this section.

(2) Each employer participating in the State Police Retirement System as provided for in KRS 16.510 to 16.652, each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute to the Kentucky Retirement Systems insurance fund the amount necessary to provide hospital and medical insurance as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate to each respective retirement system determined under KRS 61.565.

(3) (a) The premium required to provide hospital and medical benefits under this section shall be paid:

1. Wholly or partly from funds contributed by the recipient of a retirement allowance, by payroll deduction, or otherwise;

2. Wholly or partly from funds contributed by the Kentucky Retirement Systems insurance fund;

3. Wholly or partly from funds contributed by another state-administered retirement system under a reciprocal arrangement, except that any portion of the premium paid from the Kentucky Retirement Systems insurance fund under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the member's service were in one (1) of the systems administered by the Kentucky Retirement Systems;

4. Partly from subparagraphs 1., 2., or 3., except that any premium for hospital and medical insurance over the amount contributed by the Kentucky Retirement Systems insurance fund or another state-administered retirement system under a reciprocal agreement shall be paid by the recipient. If the board provides for cross-referencing of insurance premiums, the employer's contribution for the working member or spouse shall be applied toward the premium, and the Kentucky Retirement Systems insurance fund shall pay the balance, not to exceed the monthly contribution.

5. In full from the Kentucky Retirement Systems insurance fund for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) and had two hundred and forty (240) months or more of service upon retirement. Should such recipient have less than two hundred forty (240) months of service but have at least one hundred eighty (180) months of service, seventy-five percent (75%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. Notwithstanding the foregoing provisions of this subsection, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who becomes disabled in the line of duty as defined in KRS 16.505(19) or KRS 61.621, shall have his premium paid in full as if he had two hundred forty (240) months or more of service. Further, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who is killed in the line of duty as defined in KRS 16.505(19) or KRS 61.621, shall have the premium for the beneficiary, if the beneficiary is the member's spouse, and for each dependent child paid so long as they individually remain eligible for a monthly retirement benefit. "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3) retirement systems, except service added to determine disability benefits shall not be counted as "months of service."

(b) For a member electing insurance coverage through the Kentucky Retirement Systems, "months of service" shall include, in addition to service as described in paragraph (a) of this subsection, service credit in one of the other state-administered retirement plans.

1. Effective August 1, 1998, the Kentucky Retirement Systems shall compute the member's combined service, including service credit in another state-administered retirement plan, and calculate the portion of the member's premium to be paid by the insurance fund, according to the criteria established in paragraph (a) of

this subsection. Each state-administered retirement plan annually shall pay to the insurance fund the percentage of the system's cost of the retiree's monthly contribution for single coverage for hospital and medical insurance which shall be equal to the percentage of the member's number of months of service in the other state-administered retirement plan divided by his total combined service. The amounts paid by the other state-administered retirement plans and the insurance fund shall not be more than one hundred percent (100%) of the monthly contribution adopted by the respective boards of trustees.

2. A member may not elect coverage for hospital and medical benefits under this subsection through more than one (1) of the state-administered retirement plans.

3. A state-administered retirement plan shall not pay any portion of a member's monthly contribution for medical insurance unless the member is a recipient or annuitant of the plan.

(4) (a) Group rates under the hospital and medical insurance plan shall be made available to the spouse, dependents, and disabled children, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the premium for the spouse, dependent, disabled child, or beneficiary hospital and medical insurance is paid by payroll deduction from the retirement allowance or by another method. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(b) The other provisions of this section notwithstanding, the insurance fund shall pay a percentage of the monthly contribution for the spouse and dependents of a recipient who was a member of the General Assembly and is receiving a retirement allowance based on General Assembly service, of the Kentucky Employees Retirement System and determined to be in a hazardous position, of the County Employees Retirement System, and determined to be in a hazardous position or of the State Police Retirement System, or the beneficiary of the member, if the member designated only one (1) person as beneficiary. The percentage of the monthly contribution paid for the spouse and dependents of a recipient who was in a hazardous position shall be based solely on the member's service with the State Police Retirement System or service in a hazardous position using the formula in subsection (3)(a) of this section, except that for any recipient of a retirement allowance from the County Employees Retirement System who was contributing to the system on January 1, 1998, for service in a hazardous position, the percentage of the monthly contribution shall be based on the total of hazardous service and any nonhazardous service as a police or firefighter with the same agency, if that agency was participating in the County Employees Retirement System but did not offer hazardous duty coverage for its police and firefighters at the time of initial participation.

(c) The insurance fund shall continue the same level of coverage for a recipient who was a member of the County Employees Retirement System after the age of sixty-five (65) as before the age of sixty-five (65), if the recipient is not eligible for Medicare coverage. If the insurance fund provides coverage for the spouse or dependents or beneficiary of a former member of the County Employees Retirement System, the insurance fund shall continue the same level of coverage for the spouse or dependent or beneficiary after the age of sixty-five (65) as before the age of sixty-five (65), if the spouse or dependent or beneficiary is not eligible for Medicare coverage.

(5) After July 1, 1998, notwithstanding any other provision to the contrary, a member who holds a judicial office but did not elect to participate in the Judicial Retirement Plan and is participating instead in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System, as provided in KRS 61.680, and who has at least twenty (20) years of total service, one-half (1/2) of which is in a judicial office, shall receive the same hospital and medical insurance benefits, including paid benefits for spouse and dependents, as provided to persons retiring under the provisions of KRS 21.427. The Administrative Office of the Courts shall pay the cost of the medical insurance benefits provided by this subsection.

(6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

(7) The board shall promulgate an administrative regulation to establish a medical insurance reimbursement plan to provide reimbursement for hospital and medical insurance premiums of recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky and having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance at the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly premium determined under subsection (3) of this section. The plan shall not be made available if all recipients are eligible for the same coverage as recipients living in Kentucky.

(8) ***For a member whose participation begins on or after July 1, 2003, participation in the insurance benefits provided under this section shall not be allowed until the employee has earned at least one hundred twenty (120) months of service in the state-administered retirement systems.***

(a) An employee who earns at least one hundred twenty (120) months of service in the state-administered retirement systems shall be eligible for benefits as follows:

1. For employees who are not in a hazardous position, a monthly insurance contribution of ten dollars ($10) for each year of service as a participating employee.

2. For employees who are in a hazardous position or who participate in the State Police Retirement System, a monthly insurance contribution of fifteen dollars ($15) for each year of service as a participating employee in a hazardous position or as a participating member of the State Police Retirement System. Upon the death of the retired member, the beneficiary, if the beneficiary is the member's spouse, shall be entitled to a monthly insurance contribution of ten dollars ($10) for each year of service the member attained as a participating employee in a hazardous position or as a participating member of the State Police Retirement System.

(b) The one hundred twenty (120) months of service requirement shall be waived for a member who is disabled or killed in the line of duty as defined in KRS 16.505(19) or KRS 61.621, and the member or his beneficiary shall be entitled to the benefits payable under this subsection as though the member had twenty (20) years of service in a hazardous position.

(c) The monthly insurance contribution amount shall be increased July 1 of each year by the percentage change in the annual average of the consumer price index for all urban consumers for the most recent calendar year as published by the federal Bureau of Labor Statistics, not to exceed five percent (5%). The increase shall be cumulative and shall continue to accrue after the member's retirement for as long as a monthly insurance contribution is payable to the retired member or beneficiary.

(d) The benefits of this subsection provided to a member whose participation begins on or after July 1, 2003, shall not be considered as benefits protected by the inviolable contract provisions of KRS 61.692, 16.652, and 78.852. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in its judgment the welfare of the Commonwealth so demands[~~For employees hired on or after July 1, 2003, participation in the insurance benefits provided under this section shall not be allowed until the employee has earned at least one hundred twenty (120) months of service in the state administered retirement systems. An employee who earns at least one hundred twenty (120) months of service in the state-administered retirement systems shall be eligible for benefits determined using the formula in subsection (3) of this section for a recipient with one hundred twenty (120) or more months of service. The one hundred twenty (120) months of service requirement shall be waived for a member who is disabled or killed in the line of duty as defined in KRS 16.505(19) or KRS 61.621, and the member or his beneficiary shall be entitled to the benefits payable under subparagraph (3)(a)5. of this section. The benefits of this subsection as provided on July 1, 2003, and thereafter shall not be considered as benefits protected by the inviolable contract provisions of KRS 61.692, 16.652, and 78.852. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in their judgment the welfare of the Commonwealth so demands~~].

HB 512, AN ACT relating to public employee benefits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 212.792 is amended to read as follows:

(1) The board shall establish a compensation plan for all employees of the department.

(2) The employees of the department shall be employed and governed in accordance with the board's merit system. The board shall provide for the recruitment, examination, appointment, promotion, transfer, layoff, removal, discipline, compensation, and welfare of the department's employees by establishing a system of personnel administration based on merit principles. The systems shall include a personnel board of at least five (5) members appointed by the board for two (2) year terms. The personnel board shall establish rules and regulations governing the administration of the personnel system. The district director of health shall function as the appointing authority for personnel matters of the board. The board shall have one (1) year from the implementation of KRS 212.780 to 212.794 to provide for a merit system.

(3) Notwithstanding the provisions of KRS 61.510 to *61.705*[~~61.692~~] and 78.510 to 78.852 all regular full-time, present and future public health employees of an independent district department of health shall be included within the provisions of the Kentucky *Employees* Retirement System.

(4) When a personnel board is organized as provided in this section, all health department employees shall be transferred to and continued in the service of the department created under KRS 212.782. Any health department employee who is in classified service at the time of the establishment of a personnel system shall be continued in the classified service of the newly created department with the same status held in the district department of health.

The Committee Substitute to **HB 512** is as follows:

HB 512, AN ACT relating to public employee benefits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

This section shall apply only to hunters engaged in hunts which customarily employ the assistance of dogs. For the purpose of this section, "prohibited lands" means any privately owned property for which the hunter has not received permission to enter. When the chase begins on other lands, hunters may enter prohibited lands solely for the purpose of retrieving their dogs. Hunters retrieving dogs shall not carry firearms or bows on their persons or hunt any game. The use of vehicles to retrieve dogs shall be allowed only with the permission of the landowner.

The Committee Amendment No. 1 Title to **HB 512** is as follows:

HB 512, Amend the title to read as follows: "AN ACT relating to hunting dogs.".

HB 519, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

(1) "System" means the State Police Retirement System created by KRS 16.510 to 16.652;

(2) "Board" means the board of trustees of the Kentucky Retirement Systems;

(3) "Employer" or "State Police" means the Department of State Police, or its successor;

(4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided;

(5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;

(6) "Service" means the total of current service and prior service;

(7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed, including interest credited;

(8) "Creditable compensation" means all salary and wages, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's ***total*** service with the ***system in which it is recorded if it is equal to or greater than one thousand dollars ($1,000)***[~~employer~~]. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4);

(9) "Final compensation" at any time means the creditable compensation of a member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during the three (3) year period, multiplied by twelve (12); the three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

(10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;

(11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(12) "Retirement allowance" means the retirement payments to which a retired member is entitled;

(13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of actuarial tables

adopted by the board, except that, in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of State Police;

(15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959;

(16) "Disability retirement date" means the first day of the month following ***the last day of paid employment***[~~total and permanent disability or hazardous disability~~];

(17) "Dependent child" means a child ***in the womb***[~~en ventre sa mere~~] and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22);

(18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.510 to 16.652;

(19) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of the duties specified in KRS 16.060. For employees in hazardous positions under KRS 61.592, an "act in line of duty" shall mean an act occurring which was required in the performance of the principal duties of the position as defined by the job description;

(20) "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service;

(21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;

(22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;

(23) "Hazardous disability" as used in KRS 16.510 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(29) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member;

(30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;

(31) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

(32) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(33) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543; and

(34) "Month" means a calendar month.

Section 2. KRS 16.510 is amended to read as follows:

There is hereby created and established:

(1) A retirement system for state police to be known as the "State Police Retirement System" by and in which name it shall, pursuant to the provisions of KRS 16.510 to 16.652, transact all of its business, and shall have the powers and privileges of a corporation; and

(2) A [~~state~~]fund, to be known as the "State Police Retirement Fund," which shall consist of all the assets of the system as set forth in KRS 16.555. ***All assets received in the fund shall be deemed trust funds to be held and applied solely as provided in KRS 16.505 to KRS 16.652.***

Section 3. KRS 16.578 is amended to read as follows:

(1) If a member, eligible to retire as provided in KRS 16.576, dies at any time before the first benefit payment has been issued by the ***system***[~~State Treasurer~~] and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly which shall be equal to the benefit that would have been paid had the member retired immediately prior to his date of death and elected to receive payments under subsection (2) of KRS 61.635 or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain, or the beneficiary may elect to receive the beneficiary Social Security adjustment payment under subsection (9) of KRS 61.635 or the beneficiary may elect the actuarial equivalent refund.

(2) If a member in active employment or on authorized leave of absence with five (5) or more years of service dies at any time before his normal retirement date and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equal to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at the date of his death, had the member been eligible for retirement and had he chosen benefits payable under subsection (2) of KRS 61.635 or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain, or the beneficiary may elect to receive the beneficiary Social Security adjustment payment under subsection (9) of KRS 61.635 or the beneficiary may elect the actuarial equivalent refund.

(3) If a member, not in active employment nor on authorized leave of absence with twelve (12) or more years of service, dies at any time before his normal retirement date and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equal to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at the date of his death, had the member been eligible for retirement and had he chosen benefits payable under subsection (2) of KRS 61.635 or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain, or the beneficiary may elect to receive the beneficiary Social Security adjustment payment under subsection (9) of KRS 61.635 or the beneficiary may elect the actuarial equivalent refund.

(4) An alternative calculation of benefits payable to the beneficiary under subsection (1), (2) or (3) of this section shall be determined by computing an annual benefit payable commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive based on his years of service and final compensation at the date of his death reduced by the survivorship fifty percent (50%) factor as provided for in KRS 61.635(4), then reduced by fifty percent (50%) and the actuarial equivalent payable for one hundred twenty (120) months certain shall be determined, or the beneficiary may elect to receive the beneficiary Social Security adjustment payment under subsection (9) of KRS 61.635.

(5) If the member, subject to subsection (1), (2), (3), or (4) of this section had on file a written designation of multiple beneficiaries, or his estate, trust, or trustee, the multiple beneficiaries by consensus or the administrator or executor of the estate or trustee may elect to receive the actuarial equivalent to the benefit allowable under subsection (1), (2), (3), or (4) of this section given the assumptions that the beneficiary's age is the same as the member's, and that the member had chosen benefits payable monthly for sixty (60) months certain, or one hundred and twenty (120) months certain, or an actuarial equivalent refund.

(6) The beneficiary may elect to receive a one (1) time lump sum payment which shall be the actuarial equivalent of the amount payable under KRS 61.635(2) for a period of sixty (60) months. In the case of designation of multiple beneficiaries, an estate, trust, or trustee, the multiple beneficiaries by consensus, trustee, executor, or administrator of the estate may elect to receive a one (1) time lump sum payment which shall be the actuarial equivalent of the amount payable under KRS 61.635(2), assuming the beneficiary's age to be the same as the member's, for a period of sixty (60) months.

(7) In the case of a single beneficiary who is a person, the highest monthly benefit determined under subsection (1), (2), (3), (4), or (6) of this section for a life annuity, for payments for sixty (60) months certain, for payments for one hundred twenty (120) months certain, for the actuarial equivalent refund or for the beneficiary Social Security payment shall be tendered to the beneficiary. In the case of designation of multiple beneficiaries, an estate, trust, or trustee, the highest monthly benefit determined under subsection (1), (2), (3), (4), (5), or (6) of this section for payments for sixty (60) months certain or one hundred and twenty (120) months certain or the actuarial equivalent refund shall be tendered to the multiple beneficiaries, trustee, administrator, or executor of the estate.

Section 4. KRS 16.582 is amended to read as follows:

(1) (a) Total and permanent disability means a disability which results in the member's incapacity to engage in any occupation for remuneration or profit. Loss by severance of both hands at or above the wrists, or both feet at or above the ankles, or one (1) hand above the wrist and one (1) foot above the ankle, or the complete, irrevocable loss of the sight of both eyes shall be considered as total and permanent.

(b) Hazardous disability means a disability which results in the member's total incapacity to continue as a regular full-time officer or as an employee in a hazardous position, as defined in KRS 61.592, but which does not result in the member's total and permanent incapacity to engage in other occupations for remuneration or profit.

(c) In determining whether the disability meets the requirement of this section, any reasonable accommodation provided by the employer as provided in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 shall be considered.

(d) If the board determines that the total and permanent disability of a member receiving a retirement allowance under this section has ceased, then the board shall determine if the member has a hazardous disability.

(2) Any person may qualify to retire on disability, subject to the following:

(a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The service requirement shall be waived if the disability is a total and permanent disability or a hazardous disability and is a direct result of an act in line of duty;

(b) ***For a person whose membership date is prior to August 1, 2004,*** the person shall not be eligible for an unreduced retirement allowance;

(c) The person's application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment, as defined in KRS 16.505, as a regular full-time officer or in a regular full-time hazardous position under KRS 61.592;

(d) The person shall receive a satisfactory determination pursuant to KRS 61.665; and

(e) A person's disability application based on the same claim of incapacity shall be accepted and reconsidered for disability if accompanied by new objective medical evidence. The application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment as a regular full-time officer or in a regular full-time hazardous position.

(3) Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:

(a) The incapacity results from bodily injury, mental illness, or disease. For purposes of this section, "injury" means any physical harm or damage to the human organism other than disease or mental illness;

(b) The incapacity is deemed to be permanent; and

(c) The incapacity does not result directly or indirectly from:

1. Injury intentionally self-inflicted while sane or insane;

2. Injury or disease resulting from military service; or

3. Bodily injury, mental illness, disease, or condition which pre-existed membership in the system or reemployment, whichever is most recent, unless:

a. The disability results from bodily injury, mental illness, disease, or a condition which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or

b. The person has at least sixteen (16) years' current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems.

For purposes of this subparagraph, "reemployment" shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems with no loss of service credit.

(4) (a) 1. An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a position as regular full-time officer or a hazardous position.

2. The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.

(b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.

(c) The person's physical exertion requirements shall be determined based on the following standards:

1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers, and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.

2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.

3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.

4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.

5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.

(5) The disability retirement allowance shall be determined as provided in KRS 16.576, subject to the following:

(a) If the member's total service credit on his last day of paid employment in a regular full-time position is less than twenty (20) years, service shall be added beginning with his last date of paid employment and continuing to his fifty-fifth birthday. The maximum service credit added shall not exceed the total service the member had on his last day of paid employment, and the maximum service credit for calculating his retirement allowance, including his total service and service added under this section, shall not exceed twenty (20) years;

(b) ***For a person whose membership date is on or after August 1, 2004, the disability retirement allowance under total and permanent disability or hazardous disability shall be the higher of:***

1. An amount equal to twenty-five percent (25%) of the person's final rate of pay as defined in subsection (10) of Section 1 of this Act;

2. The amount under normal retirement; or

3. The amount calculated under early retirement using the person's actual total service as of the last day of paid employment without reduction for early commencement of benefits.

[~~If the member's total service credit on his last day of paid employment is twenty (20) or more years, then his total service credit shall be used.~~]

(6) If the member receives a satisfactory determination of total and permanent disability or hazardous disability pursuant to KRS 61.665 and the disability is the direct result of an act in line of duty, the member's retirement allowance shall be calculated as follows:

(a) For the disabled member, benefits as provided in subsection (5) of this section except that the monthly retirement allowance payable shall not be less than twenty-five percent (25%) of the member's monthly final rate of pay; and

(b) For each dependent child of the member on his disability retirement date, who is alive at the time any particular payment is due, a monthly payment equal to ten percent (10%) of the disabled member's monthly final rate of pay; however, total maximum dependent children's benefit shall not exceed forty percent (40%) of the member's monthly final rate of pay. The payments shall be payable to each dependent child, or to a legally appointed guardian or as directed by the system.

(7) No benefit provided in this section shall be reduced as a result of any change in the extent of disability of any retired member who is age fifty-five (55) or older.

(8) If a regular full-time officer or hazardous position member has been approved for benefits under a hazardous disability, the board shall, upon request of the member, permit the member to receive the hazardous disability allowance while accruing benefits in a nonhazardous position, subject to proper medical review of the nonhazardous position's job description by the system's medical examiner.

(9) For a member of the State Police Retirement System, in lieu of the allowance provided in subsection (5) or (6) of this section, the member may be retained on the regular payroll and receive the compensation authorized by KRS 16.165, if he is qualified.

Section 5. KRS 16.642 is amended to read as follows:

(1) The board shall be the trustee of the several funds created by KRS 16.505 to 16.652 and shall have full power to invest and

reinvest such funds, subject to the limitations that no investments shall be made except upon the exercise of bona fide discretion, in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state, except that the board may, at its discretion, purchase common stock in corporations that do not have a record of paying dividends to their stockholders. Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds.

(2) All~~[registered]~~ securities acquired under authority of KRS 16.505 to 16.652 shall be registered in the name "Kentucky Retirement Systems" or nominee name as provided by KRS 287.225, and every change in registration, by reason of sale or assignment of such securities shall be accomplished by the signatures of the chair of the board of trustees or a trustee appointed by the chair and the executive director of the systems.

(3) The board, in keeping with its responsibility as trustee and wherever feasible, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

Section 6. KRS 16.645 is amended to read as follows:

The following subjects shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

(1) Cessation of membership, as provided for by KRS 61.535;

(2) Medical examiners and hearing procedures, as provided for by KRS 61.665;

(3) Actuarial bases, as provided for by KRS 61.670;

(4) Duties of the employer, as provided for by KRS 61.675;

(5) Exemption of benefits of the system for taxation, as provided for by KRS 61.690;

(6) Retirement allowance increase, as provided for by KRS 61.691;

(7) Calculation of retirement allowance, as provided for by KRS 61.595(3) and (4);

(8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;

(9) Year of service credit, as provided for by KRS 61.545;

(10) Refund of contributions, death after retirement, as provided by KRS 61.630;

(11) Custodian of fund, payments made, when, as provided for by KRS 61.660;

(12) Credit for service prior to membership date, as provided for by KRS 61.526;

(13) Transfer of dormant accounts, as provided for by KRS 61.626;

(14) Member's account, confidential, as provided for by KRS 61.661;

(15) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(16) Correction of errors in records, as provided for by KRS 61.685;

(17) Maximum disability benefit, as provided for by KRS 61.607;

(18) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;

(19) Employer contributions, as provided for by KRS 61.565;

(20) Reinstatement of lost service credit, purchase of service credit, interest paid, and delayed contribution and installment payments, as provided for by KRS 61.552;

(21) Reciprocal arrangement between systems, as provided by KRS 61.680;

(22) Refund of contributions, conditions, as provided by KRS 61.625;

(23) Hospital and medical insurance plan, as provided by KRS 61.702;

(24) Death benefit, as provided by KRS 61.705;

(25) Disability retirement allowance, reduction, and discontinuance, as provided by KRS 61.615;

(26) Service credit, Armed Forces, as provided by KRS 61.555;

(27) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;

(28) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;

(29) Retirement of persons in hazardous positions, as provided for by KRS 61.592;

(30) Direct deposit of recipient's retirement allowance as provided in KRS 61.623;

(31) Purchase of service credit effective July 1, 2001, as provided in KRS 61.5525;

(32) Payment of small amounts upon death of member, retiree, or recipient without formal administration of the estate as provided in KRS 61.703;~~[and]~~

(33) Suspension of retirement payments on reemployment, reinstatement, recomputation of allowance, waiver of provisions in certain instances, reemployment in a different position, as provided for by KRS 61.637***; and***

(34) Medical examination and financial review after disability retirement, staff review, as provided in Section 19 of this Act.

Section 7. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, ***interim,*** and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he serves in the position;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he served in the position prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except that for members of the General Assembly, it shall mean an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the year. A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's ***total*** service with the ***system in which it is recorded if it is equal to or greater than one thousand dollars ($1,000)***[~~employer~~]. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4);

(14) "Final compensation" of a member means:

(a) For a member who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used; or

(b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance; or

(c) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). In the case of members of the General Assembly, the "final rate of pay" shall be the creditable compensation. The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the General Assembly for at least six (6) regular legislative sessions;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and

(e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;

(22) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a

publicly held corporation or other similar organization, and therefore is no longer participating in the system;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person;

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;

(33) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

(34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543; and

(35) "Month" means a calendar month.

Section 8. KRS 61.515 is amended to read as follows:

There is hereby created and established:

(1) A retirement system for employees to be known as the "Kentucky Employees Retirement System" by and in which name it shall, pursuant to the provisions of KRS 61.510 to 61.705, transact all its business and shall have the powers and privileges of a corporation; and

(2) A[~~state~~] fund, called the "Kentucky Employees Retirement Fund," which shall consist of all the assets of the system as set forth in KRS 61.570 to 61.585. ***All assets received in the fund shall be deemed trust funds to be held and applied solely as provided in KRS 61.510 to KRS 61.705.***

Section 9. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating department after the date such department first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3);

(2) (a) All persons who are employees of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following the department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

(b) All persons who are employees of a department who did not elect to participate within thirty (30) days of the date the department first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the department's date of participation;

(3) All persons who are employees of any credit union whose membership was initially limited to employees of state government and their families and which subsequently may have been extended to local government employees and their families;

(4) All persons who were professional staff employees of the Council on Postsecondary Education or the Higher Education Assistance Authority and were contributing to the system on the effective date of Executive Order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system and all administrative and professional staff

employees of the Higher Education Assistance Authority who, on or after January 1, 1993, are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;

(5) All persons who were professional staff employees of the Kentucky Authority for Educational Television on and after July 1, 1974;

(6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d);

(7) Membership in the system shall not include those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360; and

(8) Effective January 1, 1998, employees of the Kentucky Community and Technical College System who were previously contributing members and are not required to participate in the Teachers' Retirement System as a member; employees who were previously contributing members transferred from the Cabinet for Workforce Development as provided in KRS 164.5805(1)(a) and who have not exercised the option to participate in the new Kentucky Community and Technical College personnel system as provided in KRS 164.5805(1)(e); and new employees as of July 1, 1997, who are not eligible under the Teachers' Retirement System or who are not contributing to an optional retirement plan established by the board of regents for the Kentucky Community and Technical College System. ***Each job classification shall be designated by the employer as participating in a particular retirement system. Once a job classification is designated as participating in a particular retirement system, the employer shall report all employees in the job classification to the designated retirement system.***

Section 10. KRS 61.542 is amended to read as follows:

(1) Prior to the time the first retirement allowance payment is issued by the ***system***[~~State Treasurer~~]:

(a) Each member may designate ***on the form prescribed by the board*** one (1) or more persons as a principal beneficiary or beneficiaries and one (1) or more persons as contingent beneficiary or beneficiaries; or each member may designate his estate as principal or contingent beneficiary; or each member may designate a trust or trustee as principal or contingent beneficiary.

(b) If multiple persons are designated, the member shall indicate the percentage of total benefits each person is to receive.

1. If percentages are not indicated, payments will be disbursed equally to the named beneficiaries. ***If the percentages indicated do not total one hundred percent (100%), each beneficiary shall receive an increased or decreased percentage which is proportional to the percentage allotted him or her by the member.***

2. If any of the multiple beneficiaries die prior to the member's death, the remaining beneficiaries shall be entitled to the deceased beneficiary's percentage of the total benefits, and each shall receive a percentage of the deceased's share which is equal to the percentage allotted them by the member.

3. If any or all multiple beneficiaries die after the first retirement allowance has been issued by the ***system***[~~State Treasurer~~], the deceased beneficiary's estate shall receive a lump-sum payment which is the actuarial equivalent of the remaining monthly payments the deceased beneficiary was entitled to receive.

(c) This designation shall remain in full force and effect until changed by the member, except:

1. A final divorce decree terminates an ex-spouse's status as beneficiary, unless the member has on file in the retirement office a beneficiary designation that redesignates the ex-spouse as beneficiary subsequent to the issuance of the divorce decree.

2. If a beneficiary or beneficiaries are convicted of any crime which prohibits that person or persons from receiving the benefits under KRS 381.280, the beneficiary or beneficiaries shall not be eligible for any of the benefits and the remaining beneficiary or beneficiaries or, if none, the member's estate, shall become the beneficiary.

3. When a notification of retirement has been filed at the retirement office, the designation of beneficiary on the notification of retirement, which shall be one (1) person, his estate, or a trust or trustee, shall supersede the designation of all previous beneficiaries***, except that if the notification of retirement is withdrawn, invalid, or voided, the prior beneficiary designation on file with the system shall remain in full force and effect until changed by the member***.

4. When a request for refund has been filed at the retirement office, the member's estate shall become the member's beneficiary if the member dies.

(2) If the member dies prior to filing a notification of retirement or a request for refund, any retirement benefits shall be payable to the principal beneficiary, except that:

(a) If the death of the principal beneficiary or beneficiaries precedes the death of the member, or if the principal beneficiary is terminated by a divorce decree, the contingent beneficiary or beneficiaries become the principal beneficiary or beneficiaries.

(b) If the principal beneficiary is the one (1) person who is the member's spouse and they are divorced on the date of the member's death, the contingent beneficiary or beneficiaries become the principal beneficiary or beneficiaries.

(c) If the member is survived by his principal beneficiary or beneficiaries who subsequently die prior to having on file at the retirement office the necessary forms prescribed under authority of KRS 61.590, the contingent beneficiary shall become the principal beneficiary or beneficiaries.

(d) If the deaths of all the principal beneficiaries and all of the contingent beneficiaries precede the death of the member, the estate of the member becomes the beneficiary.

(3) Prior to the member's retirement, a monthly benefit payable for life shall not be offered if the beneficiary is more than one (1) person, the member's estate, or a trust or trustee.

(4) When a notification of retirement has been filed at the retirement office:

(a) The designation of beneficiary on the notification of retirement shall supersede the designation of all previous beneficiaries.

(b) The beneficiary designated by the member on the member's notification of retirement shall be one (1) person, the member's estate, or a trust or trustee.

(c) If the death of the beneficiary named on the notification of retirement precedes the date the first benefit payment has been issued by the ***system***~~[State Treasurer]~~, the member may designate another beneficiary on the member's notification of retirement.

(5) After the first retirement allowance payment is issued by the ***system***~~[State Treasurer]~~ and subsequent thereto, a member shall not have the right to change his beneficiary, except that:

(a) The estate of the retired member becomes the beneficiary if the date of death of the beneficiary precedes or coincides with the date of death of the retired member.

(b) The estate of the retired member becomes the beneficiary if the retired member had designated a person as beneficiary who was the spouse or who later married the member and they were divorced on the date of the retired member's death. An ex-spouse who was the named beneficiary on the member's notification of retirement shall be reinstated as the member's beneficiary for the payment options provided by KRS 61.635(2), (3), (4), and (8)(b) if they are remarried to each other as of the date of the retired member's death.

(c) The estate of the member shall not receive monthly payments if the member selected one (1) of the payment options provided by KRS 61.635(2), (3), (4), and (8)(b).

Section 11. KRS 61.545 is amended to read as follows:

(1) The board shall determine by appropriate administrative regulations how much service in any year is the equivalent of a year of service credit and how much service in any calendar month is the equivalent of a month of service credit. It shall not allow credit for more than one (1) year of service for all service rendered in any period of twelve (12) consecutive months except as provided in KRS 61.546 and in subsection (2) of this section.

(2) (a) Employees participating in one (1) of the state-administered retirement systems who are or have been employed by a school board participating in the County Employees Retirement System, a state-operated school under KRS Chapter 167, ***a participating community action agency,*** or a Kentucky institution of higher education which participates in the Kentucky Employees Retirement System, and who receive service credit for less than twelve (12) months each year, may purchase the additional months of service credit needed to total one (1) year of service credit except the amount purchased shall not exceed three (3) months. The employee may purchase the service credit by paying the retirement system a delayed contribution payment. Employees who have service credit prior to July 1, 1992, or their employers, the state-operated school under KRS Chapter 167, the Kentucky institution of higher education, or the school board may purchase service credit on behalf of the employee for previous years by paying the retirement system the delayed contribution payment.

(b) The cost of service under this subsection may be paid by both the employer and employee. The employer shall pay fifty percent (50%) of the cost and the employee shall pay fifty percent (50%) of the cost. The payment by the employer shall not be deposited to the member's account. Service credit shall not be credited to the member's account until both the employer's and employee's payment are received by the retirement system.

(c) If the employee has purchased service credit under this subsection based on months reported by the employer for the fiscal year, and an audit of the employee's account reduces the number of months of service credit for which the employee is eligible to no fewer than nine (9) months, the employee shall retain credit for the months purchased unless the employee is ineligible for any service in the fiscal year. The employee shall be eligible to purchase the additional months under this subsection to total one (1) year.

(3) (a) An employee who is simultaneously eligible for membership in more than one (1) retirement system administered by the Kentucky Retirement Systems may, at his option, choose to participate in only one (1) of those systems. The choice, once made, shall remain in effect so long as the employee is eligible for membership in more than one (1) system.

(b) If the employee participates in more than one (1) of the retirement systems administered by the Kentucky Retirement Systems, the employee's service credit shall be divided between each system determined by dividing the employee's creditable compensation in each system by the employee's total creditable compensation in all systems.

(c) If the employee earns creditable compensation in both a hazardous position, as defined by KRS 61.592, and a nonhazardous position, the employee's service credit shall be divided between the employee's hazardous and nonhazardous positions determined by dividing the employee's creditable compensation in the hazardous and nonhazardous positions by the employee's combined hazardous and nonhazardous creditable compensation.

Section 12. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state-administered retirement systems who has been refunded his accumulated contributions under the provisions of KRS 16.645(22), 61.625, or 78.545(15), thereby losing service credit, may regain the credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system. The payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems***, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, and*** who did not elect membership in the County Employees Retirement System, as provided in KRS 78.540(2), may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(3) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems***, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, and*** who did not elect membership in the Kentucky Employees Retirement System, as provided in KRS 61.525(2), may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(4) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems***, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems,*** may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(5) (a) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems***, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems,*** may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(b) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for the period of his service with an area development district created pursuant to KRS 147A.050 or with a business development corporation created pursuant to KRS 155.001 to 155.230 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system in which he participates a delayed contribution payment, as determined by the board's actuary. The employee may obtain credit for employment with a business development corporation only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. Payment may be by lump sum or the employee may pay by increments.

(6) After August 1, 2000, service credit obtained under the subsections of this section which do not require the employee to have a minimum number of years of service credit to be eligible to make a purchase shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member if the member does not obtain for service performed six (6) months' additional current service credit in one (1) of the state-administered retirement systems. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 16.582 or 61.600.

(7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.

(8) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65) in the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not participate in a defined benefit or defined contribution retirement program at the university may obtain credit in the employee's account in the County Employees Retirement System, the Kentucky Employees Retirement System, or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the County Employees, Kentucky Employees Retirement System, or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum, or the employee may pay by increments.

(9) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for the service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of the service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(11) Employees who served as assistants to officers and employees of the General Assembly who have at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems and who were unable to acquire service under KRS 61.510(20) may purchase credit for the service performed after January 1, 1960. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(12) (a) Effective August 1, 1988, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for interim, seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The cost will be determined as a delayed contribution payment for the period of time involved, which shall not be picked up by the employer as described in KRS 61.560(4).

(b) Any noncertified employee of a school board who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment may be by lump sum or the employee may pay by increments. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed credit only for those months he receives creditable compensation for eighty (80) hours of work. The cost will be determined as a delayed contribution payment, which shall not be picked up by the employer as described in KRS 78.610(4).

(13) A retired member, who is contributing to one (1) of the state-administered retirement programs under the provisions of KRS 61.637(1) to (4) and purchases service credit under this section in the system or systems from which he is retired, shall have his retirement allowance recomputed:

(a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(14) Any employee participating in one (1) of the systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for prior or current service for any period of approved educational leave, or for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, by paying to the respective retirement system a delayed contribution payment. The employee may also obtain credit for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, but only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for prior or current service for any period of ***authorized***~~[approved]~~ maternity leave, unpaid leave authorized under the Federal Family and Medical Leave Act, or for any period of ***authorized***~~[approved]~~ sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by making installment payments in lieu of a lump-sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. Once multiple service purchases have been combined in an installment purchase, the employee may not separate the purchases or pay a portion of one (1) of the purchases. The employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal.

(b) One (1) year of installment payments shall be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total period allowed for installments shall not be less than one (1) year and shall not exceed five (5) years.

(c) The employee shall pay the installments by payroll deduction. Upon notification by the retirement system, the employer shall report the installment payments either monthly or semimonthly continuously over each twelve (12) month period at the same time as, but separate from, regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employee elects to stop the installment payments, dies, retires, or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have sixty (60) days to pay the remaining principal of the purchase by lump sum, except that payment by the member shall be made prior to the effective retirement date. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employee for sixty (60) days, except in the case of employees on military leave or sick leave without pay, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased. Installment payments of employees on military leave or sick leave without pay shall be suspended during the period of leave and shall resume without recalculation upon the employee's return from leave.

(g) If payments have ceased under paragraph (e) or (f) of this subsection and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

(17) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by transferring funds through a direct trustee-to-trustee transfer as permitted under the applicable sections of the Internal Revenue Code and any regulations or rulings issued thereunder, or through a direct rollover as contemplated by and permitted under 26 U.S.C. sec. 401(a)(31) and any regulations or rulings issued thereunder. Service credit may also be purchased by a rollover of funds pursuant to and permitted under the rules specified in 26 U.S.C. sec. 402(c) and 26 U.S.C. sec. 408(d)(3). The Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted under the rules specified in the applicable provisions of the Internal Revenue Code and any regulations and rulings issued thereunder. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.

(18) After August 1, 1998, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is age sixty-five (65) or older and has forty-eight (48) months of service credit or, if younger, who has sixty (60) months of service credit in systems administered by Kentucky Retirement Systems may purchase credit in the system in which the employee has the service credit for up to ten (10) years service in a regular full-time position that was credited to a state or local government-administered public defined benefit plan in another state other than a defined benefit plan for teachers. The employee shall pay a delayed contribution payment. Payment may be by lump sum, or the employee may pay by increments. The employee may transfer funds directly from the other state's plan if eligible to the extent permitted under subsection (17) of this section and to the extent permitted by the other state's laws and shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.

(19) After August 1, 1998, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has sixty (60) or more months of service in the State Police Retirement System or in a hazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System, may purchase credit in the system in which the employee has the sixty (60) months of service credit for up to ten (10) years of service in a regular full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592. The employee shall pay a delayed contribution payment. Payment may be by lump sum or by increments. The employee may transfer funds directly from the other unit of government's plan if eligible to the extent permitted under subsection (17) of this section and to the extent permitted by the other state's laws, and the employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.

(20) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems and who has completed service as a volunteer in the Kentucky Peace Corps, created by KRS 154.01-720, may purchase service credit for the time served in the corps by making delayed contribution payments.

(21) An employee participating in any retirement system administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems, and who was formerly employed in a regional community mental health and mental retardation services program, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system may obtain credit for the period of his service in the regional community mental health and mental retardation program, by paying to the state retirement system in which he participates a delayed contribution payment. Payment to one (1) of the retirement systems administered by the Kentucky Retirement Systems may be made by lump sum or in increments.

(22) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, who was employed by a vocational technical school in a noncertified part-time position averaging eighty (80) or more hours per month, determined by using the number of months actually worked within a calendar or fiscal year, may purchase service credit in the Kentucky Employees Retirement System. The cost of the service shall be a delayed contribution payment, which shall not be picked up by the employer as described in KRS 61.560(4).

(23) (a) Any person who is entitled to service credit for employment which was not reported in accordance with KRS 16.543, 61.543, or KRS 78.615 may obtain credit for the service by paying the employee contributions due within

six (6) months of notification by the system. No interest shall be added to the contributions. The service credit shall not be credited to the member's account until the employer contributions are received. If a retired member makes the payment within six (6) months, the retired member's retirement allowance shall be adjusted to reflect the added service after the employer contributions are received by the retirement system.

(b) Any employee participating in one (1) of the state-administered retirement systems who is entitled to service credit under paragraph (a) of this subsection and who has not repaid the employee contributions due within six (6) months of notification by the system may regain the credit after the six (6) months by paying to the system the employee contributions plus interest at the actuarially assumed rate from the date of initial notification under paragraph (a) of this subsection. Service credit shall not be credited to the member's account until the employer contributions are received by the retirement system. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(24) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems may purchase service credit for employment with a public agency that would have been eligible to participate under KRS 61.520 but which did not participate in the Kentucky Employees Retirement System or a political subdivision that would have been eligible to participate under KRS 78.530 but which did not participate in the County Employees Retirement System if the former public agency or political subdivision has merged with or been taken over by a participating department or county. The cost of the service shall be determined as a delayed contribution payment for the respective retirement system. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or KRS 78.610(4), by the employer.

(25) Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems prior to July 15, 2002, who has accrued at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems and who has total service in all state-administered retirement systems of at least one hundred eighty (180) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit which is not otherwise purchasable under any of the provisions of KRS 16.510 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852. The purchase price for the retirement service credit shall be calculated and paid for as a delayed contribution payment. The payment shall not be picked up, as described in KRS 16.545(4), KRS 61.560(4), KRS 78.610(4), by the employer, and the employee's payment shall be paid into the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by increments. The service purchased under this subsection shall not be used in determining a retirement allowance until the member has accrued at least two hundred forty (240) months of service, excluding service purchased under this subsection. If the member does not accrue at least two hundred forty (240) months of service, excluding service purchased under this subsection, upon retirement, death, or written request following termination, the payment, plus interest as provided in KRS 61.575, shall be refunded.

(26) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), in the systems administered by Kentucky Retirement Systems, may obtain credit in the County Employees Retirement System for the period of that employee's service with a community action agency created under KRS 273.405 to 273.453 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system a delayed contribution payment. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or 78.610(4), by the employer.

(27) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the retirement systems administered by the Kentucky Retirement Systems may obtain current service credit for up to forty-eight (48) months for his or her period of service as a Domestic Relations Commissioner by paying to the retirement system a delayed contribution payment no later than December 31, 2002. Payment may be made by lump sum or under an installment agreement. The payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(28) The board of trustees is authorized to establish a program, subject to a favorable ruling from the Internal Revenue Service, to provide for the purchase of service credit under any of the provisions of KRS 16.510 to 16.552, 61.515 to 61.705, and 78.520 to 78.852, pursuant to the employer pick-up provisions in 26 U.S.C. sec. 414(h)(2).

(29) An employee may obtain credit for regular full-time service with an agency prior to August 1, 1998, for which the employee did not receive credit due to KRS 61.637(1), by paying a delayed contribution. The payment shall not be picked up by the employer, except as provided in subsection (28) of this section, and shall be credited to the employee's second retirement account. Service credit obtained under this subsection shall not be used in determining benefits under KRS 61.702. The employee may purchase credit for service prior to August 1, 1998, if:

(a) The employee retired from one (1) of the retirement systems administered by the Kentucky Retirement Systems and was reemployed prior to August 1, 1998, earning less than the maximum permissible earnings under the Federal Social Security Act;

(b) The employee elected to participate in a second retirement account effective August 1, 1998, in accordance with KRS 61.637(7); and

(c) The employee has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), in a second account in the systems administered by Kentucky Retirement Systems.

(30) An employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, may obtain credit for the service in a regular full-time position otherwise creditable under the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System for service in the United States government, other than service in the Armed Forces, for which service is not otherwise given, by paying to the system a delayed contribution payment. Payment may be made by lump sum or in increments. No payment made pursuant to this section shall be picked up by the employer, as described in KRS 61.560(4).

Section 13. KRS 61.5525 is amended to read as follows:

(1) Effective July 1, 2001, purchase of service under the provisions of KRS 16.505 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852, except as provided in subsection (2) of this section, shall be determined by multiplying the higher of the employee's current rate of pay, final rate of pay, or final compensation as of the end of the month in which the purchase is made times the actuarial factor times the number of years of service being purchased.

(2) This provision shall not apply to KRS 61.552(1) and (23), or KRS 61.592(3)(c).

(3) Service purchased on or after August 1, 2004, under the provisions of KRS 16.505 to KRS 16.652, KRS 61.510 to KRS 61.705, or KRS 78.510 to KRS 78.852, except for service purchased under subsections (1) and (23) of Section 12 of this Act, shall not be used to determine benefits under Section 32 of this Act.

Section 14. KRS 61.555 is amended to read as follows:

(1) After August 1, 1998, any employee entering the Armed Forces of the United States after he first participates in the system, who joins the Armed Forces within three (3) months of the last day of paid employment, being on leave of absence from service and not withdrawing his accumulated contributions, shall be credited for retirement purposes with service credit and creditable compensation as provided in 38 U.S.C. sec. 4318 for his period of active military duty in the Armed Forces of the United States, not to exceed six (6) years, if his discharge therefrom is honorable and he returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems within two (2) years after completion of the period of active military duty, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge.

(2) After August 1, 1998, any employee who, prior to the date he first participated in the system, terminated his employment with an agency participating in one (1) of the systems administered by the Kentucky Retirement Systems and within three (3) months entered the Armed Forces of the United States and who returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems within two (2) years after completion of the period of active military duty, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be credited for retirement purposes with service credit and creditable compensation as provided in 38 U.S.C. sec. 4318 for his period of active military duty in the Armed Forces, not to exceed six (6) years.

(3) Any National Guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years' service while on military duty during this period, shall have that portion of his active military duty, necessary to the completion of eight (8) years' current service, credited to his account, as current service without having to meet the reemployment criteria.

(4) Any employee eligible for retirement as prescribed in KRS 61.559 or any employee upon completion of five (5) years of service shall receive current service credit for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service under subsections (1) to (3) of this section if he pays thirty-five percent (35%) of the cost of the service based on the formula adopted by the board. The payment by the member shall not be picked up by the employer, as described in KRS 61.560(4), and shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for the purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account, the system shall not accept employee payments until funds are available in the account.

(5) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems eligible to purchase military service credit under subsection (4) of this section shall receive current service credit for active military duty as provided under subsection (4) of this section without payment of the current employee contribution ratio if the member was taken prisoner by a hostile power at any time during active military service.

(6)[~~(a)~~] Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or if younger who has sixty (60) months of service, at least twelve (12) of which are current service shall receive current service for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is not dishonorable and he has not been credited with the service under subsections (1) to (4) of this section, by paying the retirement system a delayed contribution payment. Payment may be made by lump sum or in increments. The payment shall not be picked up by the employer as described in KRS 16.545(4), 61.560(4), or 78.610(4) and shall be deposited in the member's individual retirement account.

[~~(b) Notwithstanding any other provision to the contrary, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems age sixty-five (65) or older who has at least one hundred eighty (180) months of service in the systems administered by Kentucky Retirement Systems shall receive current service for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is not dishonorable and he has not been credited with the service under this section, by paying the retirement system fifty percent (50%) of the cost under KRS 61.5525 no later than December 31, 2002. Payment may be made by lump sum or under an installment agreement under KRS 61.552. The payment shall not be picked up by the employer as described in KRS 16.545(4), 61.560(4), or 78.610(4) and shall be deposited in the member's individual retirement account.~~]

(7) Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or if younger who has sixty (60) months of service, at least twelve (12) of which are current service, shall receive one (1) month of current service for each six (6) months of service in the National Guard or the military reserves of the United States, by paying the retirement system a delayed contribution payment. The service shall be treated as service earned prior to participation in the system and shall not be included in the member's final compensation. Payment may be made by lump sum or in increments. The payment shall not be picked up by the employer, as described in KRS 16.545(4), 61.560(4), or 78.610(4) and shall be deposited in the member's individual retirement account.

Section 15. KRS 61.590 is amended to read as follows:

(1) A member or beneficiary eligible to receive retirement benefits under any of the provisions of KRS 61.510 to 61.705, 78.510 to 78.852, and 16.510 to 16.652 shall have on file at the retirement office on the form prescribed by the board, notification of retirement, giving his name, address, Social Security number, last day of employment, and other information the system may require. The notification of retirement shall not be filed more than six (6) months before the member's effective retirement date.

(2) Within ten (10) days of the receipt of the notification of retirement form submitted within two (2) months of the effective date of retirement, the system shall cause to be prepared an estimate of the amounts the member or beneficiary may expect to receive under the various plans available to the member or beneficiary. This information shall be recorded on a form entitled "Estimated Retirement Allowance" and forwarded to the member or beneficiary. If the member submits a notification of retirement form more than two (2) months prior to the effective retirement date, the system shall provide the estimated retirement allowance within forty-five (45) days of the member's effective retirement date.

(3) The member or beneficiary shall file at the retirement office the form entitled "Estimated Retirement Allowance" after he has checked the plan of his choice, signed the document and had his signature witnessed. A member or beneficiary may not select a different plan after the first retirement allowance payment has been issued by the *system*[~~State Treasurer~~].

(4) A member or beneficiary choosing a monthly payment plan shall have on file at the retirement office his birth certificate or other acceptable evidence of date of birth. If a survivorship plan is chosen, proof of dates of birth of the beneficiary and member shall be on file at the retirement office.

(5) The effective date of normal retirement shall be the first month following the month in which employment was terminated from a regular full-time position. The effective date of disability retirement shall be the first month following the month in which the member's last day of paid employment in a regular full-time position occurred. The effective date of early retirement shall be the first month following the month the notification of retirement form is filed at the retirement office or a future month designated by the member, if employment in a regular full-time position has been terminated and if the member files the "Estimated Retirement Allowance Form" no later than six (6) months following termination.

(6) The effective date of a deferred retirement option as provided under KRS 16.576(5) shall be the month following age sixty-five (65), or the month following written notification from the member that he wishes to begin receiving retirement payments. In the event of the death of a member who has deferred his retirement allowance, the effective date of retirement shall be the month following the member's death.

(7) Notwithstanding the provisions of KRS 16.578 or 61.640, the effective date of a beneficiary's retirement allowance under normal, early, or disability retirement shall be as prescribed in subsection (5) or (6) of this section if the member dies before the first retirement allowance has been issued by the *system*[~~State Treasurer~~] and his beneficiary becomes eligible for payments under KRS 16.578 or 61.640.

Section 16. KRS 61.595 is amended to read as follows:

(1) Effective July 1, 1990, upon retirement at normal retirement date or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) for the County Employees Retirement System and one and ninety-seven hundredths percent (1.97%) for the Kentucky Employees Retirement System of final compensation multiplied by the number of years of service credit, except

that:

(a) Effective February 1, 1999, a member of the Kentucky Employees Retirement System who was participating in one of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, shall receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two percent (2%) of final compensation multiplied by the number of years of service credit. Any Kentucky Employees Retirement System member whose effective date of retirement is between February 1, 1999, and January 31, 2009, and who has at least twenty (20) years of service credit in one of the state-administered retirement systems and who was participating in one of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, shall receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) of final compensation multiplied by the number of years of service credit. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account;

(b) The annual normal retirement allowance for members of the General Assembly, who serve during the 1974 or 1976 General Assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than two hundred forty dollars ($240) multiplied by the number of years of service as a member of the General Assembly;

(c) The annual normal retirement allowance for members of the General Assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 General Assembly for legislative service prior to January 1, 1974;

(d) Former members of the General Assembly who have eight (8) or more years of legislative service prior to the 1976 Regular Session are eligible for an increased retirement allowance of two hundred forty dollars ($240) times the years of legislative service, if the member pays to the Kentucky Employees Retirement System thirty-five percent (35%) of the actuarial cost of the higher benefit, as determined by the system, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five percent (65%) of the computed actuarial cost shall be paid from the State Treasury to the Kentucky Employees Retirement System upon presentation of a properly documented claim to the Finance and Administration Cabinet. If any member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph, and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;

(e) The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky Employees Retirement System, at least one (1) of which is current service, shall not be less than five hundred twelve dollars ($512); and

(f) The annual retirement allowance for a member of the Kentucky Employees Retirement System or County Employees Retirement System shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(2) (a) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.

(b) A member of the Kentucky Employees Retirement System or the County Employees Retirement System who has twenty-seven (27) or more years of service credit, at least fifteen (15) of which are current service, may retire with no reduction in the retirement allowance. A member who has earned vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education, the Council on Postsecondary Education, or the Higher Education Assistance Authority, may count the vested service toward attaining the necessary years of service credit as provided in KRS 61.559(2)(c) and (d) to qualify for a retirement allowance. The credit from a Kentucky institution of higher education, the Council on Postsecondary Education, or the Higher Education Assistance Authority shall not be used toward the minimum fifteen (15) years of current service required by KRS 61.559(2)(c) and (d) or to calculate his retirement allowance pursuant to this section. The provisions of this paragraph shall not be construed to limit the use of Teachers' Retirement System credit pursuant to KRS 61.680(2)(a).

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the ***system***~~[State Treasurer]~~ shall be requested to issue the initial retirement payment.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is two dollars ($2) greater or less than the amount of the initial retirement payment. If the member or beneficiary chose an actuarial

equivalent refund payment option, the amount of estimated retirement allowance shall be the official retirement allowance unless the new calculation produces an amount which is one hundred dollars ($100) greater or less than the amount of the initial retirement payment.

Section 17. KRS 61.600 is amended to read as follows:

(1) Any person may qualify to retire on disability, subject to the following conditions:

(a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1);

(b) ***For a person whose membership date is prior to August 1, 2004,*** the person shall not be eligible for an unreduced retirement allowance;

(c) The person's application ***or reapplication*** shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment, as defined in KRS 61.510, in a regular full-time position, as defined in KRS 61.510 or 78.510;

(d) The person shall receive a satisfactory determination pursuant to KRS 61.665; ***and***

(e) A person's disability ***reapplication***[~~application~~] based on the same claim of incapacity shall be accepted and reconsidered for disability if accompanied by new objective medical evidence. The ***reapplication***[~~application~~] shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment in a regular full-time position[~~; and~~

~~(f) A person who had previously applied for and was denied disability benefits by the board on or before December 31, 1996, because of the pre-existing disease of poliomyelitis may file a new application for disability benefits no later than December 31, 2002, at the office of the retirement systems, and subsection(2)(d) of this section shall not apply to the new application if the person applying under this paragraph has at least ten (10) years of current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems~~].

(2) Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:

(a) The person, since his last day of paid employment, has been mentally or physically incapacitated to perform the job, or jobs of like duties, from which he received his last paid employment. In determining whether the person may return to a job of like duties, any reasonable accommodation by the employer as provided in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 shall be considered;

(b) The incapacity is a result of bodily injury, mental illness, or disease. For purposes of this section, "injury" means any physical harm or damage to the human organism other than disease or mental illness;

(c) The incapacity is deemed to be permanent; and

(d) The incapacity does not result directly or indirectly from bodily injury, mental illness, disease, or condition which pre-existed membership in the system or reemployment, whichever is most recent. For purposes of this subsection, reemployment shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems with no loss of service credit.

(3) Paragraph (d) of subsection (2) shall not apply if:

(a) The incapacity is a result of bodily injury, mental illness, disease, or condition which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or

(b) The person has at least sixteen (16) years' current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems.

(4) (a) 1. An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a regular full-time position.

2. The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.

(b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.

(c) The person's physical exertion requirements shall be determined based on the following standards:

1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers, and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.
2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.
3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.
4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.
5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.

Section 18. KRS 61.605 is amended to read as follows:

(1) Upon disability retirement, an employee may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his disability except that service credit shall be added to the employee's total service beginning with his last date of paid employment and continuing to his sixty-fifth birthday; however, the maximum service credit added shall not exceed the total service the employee had upon his last day of paid employment, and the maximum combined service credit for calculating his disability retirement allowance, including total service and added service shall not exceed twenty-five (25) years. If, however, an employee has accumulated twenty-five (25) or more years of total service, he shall receive added service necessary to bring his combined service credit, including total and added service, to twenty-seven (27) years.

(2) For a person whose membership date is on or after August 1, 2004, the disability retirement allowance shall be the higher of:

- ***(a) An amount equal to twenty percent (20%) of the person's final rate of pay as defined in subsection (15) of Section 7 of this Act;***
- ***(b) The amount under normal retirement; or***
- ***(c) The amount calculated under early retirement using the person's actual total service as of the last day of paid employment without reduction for early commencement of benefits.***

Section 19. KRS 61.610 is amended to read as follows:

(1) Once each year following the retirement of a ***person***[~~member~~] on a disability retirement allowance, or less frequently as determined by the board's medical examiner but not less than once every five (5) years, the system may require the person, prior to his normal retirement date, to undergo ***an employment***[~~a financial~~] and medical staff review and, if necessary, be required to ***file at the retirement office on the review form prescribed by the board***[~~submit~~] current ***employment information and current*** medical information ***for the bodily injury, mental illness, or disease for which he receives a disability retirement allowance. The person shall have one hundred eighty (180) days from the day the system mailed the review form to the person's last address on file in the retirement office to file at the retirement office the review form and the current employment and medical information. The person shall certify to the retirement office that the review form, including current employment and medical information, is ready to be evaluated by the medical examiner in accordance with Section 20 of this Act***.

(2) If ***the person fails or***[~~he~~] refuses[~~ to submit~~] to ***file at the retirement office the review form, including the current employment and medical information***[~~a medical examination~~], his retirement allowance shall be discontinued ***or reduced on the first day of the month following the expiration of the one hundred eighty (180) days from the day the system mailed the review form to the person's last address on file in the retirement office. The system shall send notice of the discontinuance of the disability retirement allowance by United States first class mail to the person's last address on file in the retirement office. If the person's benefits are discontinued or reduced under this section, his rights to further disability retirement allowances shall cease, except as provided by Section 20 of this Act***[~~until his withdrawal of refusal, and if the refusal continues for one (1) year, all his rights to any further disability allowance shall cease~~].

[~~(2) Disability retirees whose effective retirement date is August 1, 1988, or thereafter shall undergo an annual financial and medical staff review and, if necessary, be required to submit current medical information.~~]

Section 20. KRS 61.615 is amended to read as follows:

(1) If ***the board's medical examiner determines that*** a recipient of a disability retirement allowance is, prior to his normal retirement date, employed in a position with the same or similar duties***, or in a position with duties requiring greater residual functional capacity and physical exertion,*** as the position from which he was disabled, except where the recipient has returned to work on a trial basis not to exceed nine (9) months, the ***system***[~~board~~] may reduce ***or discontinue*** the retirement allowance. Each recipient of a disability retirement allowance who is engaged in gainful employment shall notify the system of any employment; otherwise, the system shall have the right to recover payments ***of a disability retirement allowance*** made during the employment.

(2) If ***the board's medical examiner determines***[~~it is determined~~] that ***a***[~~any disabled~~] recipient ***of a disability retirement allowance*** is***, prior to his normal retirement date, no longer incapacitated by the bodily injury, mental illness, or disease for which he receives a disability retirement allowance, the board may reduce or discontinue the retirement allowance***[~~able to be employed in a position with the same or similar duties as the position from which he was disabled, and if the board finds that the person refused any employment considered by the board suitable to his capacity, he shall not be entitled to any allowance during the continuance of his refusal, unless in the opinion of the board his refusal was justified~~].

(3) The system shall have full power and exclusive authority to reduce or discontinue a disability retirement allowance and the system shall utilize ***the***[~~procedures consistent with KRS 61.665, including~~] services of ***a medical examiner as provided in Section 28 of this Act***[~~an examiner~~], in determining ***whether to continue, reduce, or discontinue a disability***[~~the amount of reduction in~~] retirement allowance under this section.

(a) The system shall select an examiner to evaluate the review form and current employment and medical information submitted by the person. The medical examiner shall recommend that disability retirement allowance be continued, reduced, or discontinued. If there is objective medical evidence of a mental impairment, the medical examiner may request the board's licensed mental health professional to assist in determining the level of the mental impairment. The system may require the person to submit to a medical examination.

(b) If the medical examiner recommends that the disability retirement allowance be continued, the system shall make retirement payments in accordance with the retirement plan selected by the person.

(c) If the medical examiner recommends that the disability retirement allowance be reduced or discontinued, the system shall send notice of the recommendation by United States first class mail to the person's last address on file in the retirement office. The person shall have sixty (60) days from the day that the system mailed the notice to file at the retirement office additional supporting employment or medical information and certify to the retirement office that the review form and additional supporting employment information or medical information are ready to be evaluated by the medical examiner, or to appeal the recommendation of the medical examiner to reduce or discontinue the disability retirement allowance by filing at the retirement office a request for a formal hearing. If the person fails or refuses to file at the retirement office the review form including the additional supporting employment information and current medical information or to appeal the recommendation of the medical examiners to reduce or discontinue the disability retirement allowance, his retirement allowance shall be discontinued on the first day of the month following the expiration of the period of the sixty (60) days from the day the system mailed the notice of the recommendation to the person's last address on file in the retirement office.

(d) If the medical examiner recommends that the disability retirement allowance be reduced or discontinued based upon the evaluation of additional supporting medical information in accordance with paragraph (c) of this subsection, the systems shall send notice of this recommendation by United States first class mail to the person's last address on file in the retirement office. The person shall have sixty (60) days from the day that the system mailed the notice of the recommendation to appeal the recommendation to reduce or discontinue the disability retirement allowance by filing at the retirement office a request for formal hearing. If the person fails or refuses to appeal the recommendation of the medical examiners to reduce or discontinue the disability retirement allowance, his retirement allowance shall be discontinued on the first day of the month following the expiration of the period of the sixty (60) days from the day the system mailed the notice of the recommendation to the person's last address on file in the retirement office.

(e) If the medical examiner recommends that the disability retirement allowance be continued, the system shall make disability retirement payments in accordance with the retirement plan selected by the person.

(f) The medical examiners shall be paid a reasonable amount by the retirement system for each case evaluated.

(g) Notwithstanding the foregoing provisions of this section, the system may pay for one (1) or more medical examinations of the person requested by the medical examiner for the purpose of providing medical information deemed necessary by the medical examiner. The system may require the person to submit to one (1) or more medical examinations. If the person fails or refuses to submit to one (1) or more medical examinations, his rights to further disability retirement allowance shall cease.

(h) Any person whose disability benefits have been reduced or discontinued, pursuant to paragraph (c) or (d) of this

subsection, may file at the retirement office a request for formal hearing to be conducted in accordance with KRS Chapter 13B. The right to demand a formal hearing shall be limited to a period of sixty (60) days after the person had notice, as described in paragraph (c) or (d) of this subsection. The request for formal hearing shall be filed with the system, at the retirement office in Frankfort. The request for formal hearing shall include a short and plain statement of the reasons the reduction, discontinuance, or denial of disability retirement is being contested.

(i) Failure of the person to request a formal hearing within the period of time specified shall preclude the person from proceeding any further with contesting the reduction or discontinuation of disability retirement allowance, except as provided in subsection (6)(d) of this section. This paragraph shall not limit the person's right to appeal to a court.

(j) The system may require the person requesting the formal hearing to submit to one (1) or more medical or psychological examinations. Notice of the time and place of the examination shall be mailed to the person or his legal representative. The system shall be responsible for the cost of the examination.

(k) A final order of the board shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the board and the facts and law upon which the decision is based. If the board orders that the person's disability retirement allowance be discontinued or reduced, the order shall take effect on the first day of the month following the day the system mailed the order to the person's last address on file in the retirement office. Judicial review of the final board order shall not operate as a stay and the system shall discontinue or reduce the person's disability retirement allowance as provided in this section.

(l) All requests for a hearing pursuant to this section shall be made in writing.

(4) The board may establish an appeals committee whose members shall be appointed by the chair and who shall have the authority to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of the board.

(5) Any person aggrieved by a final order of the board may seek judicial review after all administrative appeals have been exhausted by filing a petition for judicial review in the Franklin Circuit Court in accordance with KRS Chapter 13B.

(6)[~~(4)~~] If a disability retirement allowance is reduced or discontinued, the member may apply for early retirement benefits as provided under KRS 61.559, subject to the following provisions:

(a) The member may not change his beneficiary or payment option;

(b) If the member has returned to employment with an employer participating in the system from which he retired, the service and creditable compensation shall be used in recomputing his benefit, except that the member's final compensation shall not be less than the final compensation last used in determining his retirement allowance;

(c) The benefit shall be reduced as provided by KRS 61.595(2);

(d) The member shall remain eligible for reinstatement of his disability allowance upon reevaluation by the medical review board until his normal retirement age*. The member shall apply for reinstatement of disability benefits in accordance with the provisions of this section. If the member establishes that the disability benefits should be reinstated, the retirement system shall pay disability benefits effective from the first day of the month following the month in which the member applied for reinstatement of the disability benefits*; and

(e) Upon attaining normal retirement age, the member shall receive the higher of either his disability retirement allowance or his early retirement allowance.

(7)[~~(5)~~] No disability retirement allowance shall be reduced or discontinued by the system after the member's normal retirement date except in case of reemployment as provided for by KRS 61.637. If a disability retirement allowance has been reduced or discontinued, except if the member is reemployed as provided for by KRS 61.637, the retirement allowance shall be reinstated upon attainment of the member's normal retirement age to the retirement allowance prior to adjustment. No reinstated payment shall be less than the recipient is receiving upon attainment of the member's normal retirement age.

Section 21. KRS 61.621 is amended to read as follows:

(1) Notwithstanding any provision of any statutes to the contrary, effective June 1, 2000, any employee participating in one (1) of the state-administered retirement systems who is not in a hazardous duty position, as defined in KRS 61.592, shall be eligible for minimum benefits equal to the benefits payable under this section or KRS 61.702 if the employee dies or becomes *totally and permanently* disabled *to engage in any occupation for remuneration or profit* as a result of a duty-related injury.

(2) (a) For purposes of this section, "duty-related injury" means:

1. a. A single traumatic event that occurs while the employee is performing the duties of his position; or

b. A single act of violence committed against the employee that is found to be related to his job duties, whether or not it occurs at his job site; and

2. The event or act of violence produces a harmful change in the human organism evidenced by objective medical findings.

(b) Duty-related injury does not include the effects of the natural aging process, a communicable disease unless the risk of contracting the disease is increased by nature of the employment, or a psychological, psychiatric, or stress-related change in the human organism unless it is the direct result of a physical injury.

(3) (a) If the employee dies as a result of a duty-related injury and is survived by a spouse, the surviving spouse shall be the beneficiary, and this shall supersede the designation of all previous beneficiaries of the deceased employee's retirement account.

(b) The surviving spouse may elect to receive the benefits payable under KRS 61.640 or other applicable death benefit statutes, or may elect to receive a lump-sum payment of ten thousand dollars ($10,000) and a monthly payment equal to twenty-five percent (25%) of the member's monthly final rate of pay beginning in the month following the member's death and continuing each month until death.

(4) If the employee is determined to be disabled as provided in KRS 61.600, or other applicable disability statutes in any other state-administered retirement system, as the result of a duty-related injury, the employee may elect to receive benefits determined under the provisions of KRS 61.605, or other applicable disability statutes in any other state-administered retirement system, except that the monthly retirement allowance shall not be less than twenty-five percent (25%) of the employee's monthly final rate of pay. For purposes of determining disability, the service requirement in KRS 61.600(1)(a), or other applicable statutes in any other state-administered retirement system, shall be waived.

(5) In the period of time following a member's death or disability during which dependent children survive, a monthly payment shall be made for each dependent child who is alive which shall be equal to ten percent (10%) of the deceased or disabled member's monthly final rate of pay; however, total maximum dependent children's benefits shall not exceed forty percent (40%) of the deceased or disabled member's monthly final rate of pay at the time any particular payment is due. The payment shall commence in the month following the date of death or disability of the member and shall be payable to the beneficiaries, or to a legally appointed guardian, or as directed by the system. Benefits for death as a result of a duty-related injury shall be payable under this subsection notwithstanding an election by a beneficiary to withdraw the deceased member's accumulated contributions as provided in KRS 61.625 or benefits under any other provisions of KRS 61.515 to 61.705 or other applicable death benefit statutes in any other state-administered retirement system.

(6) This section shall be known as "The Fred Capps Memorial Act."

Section 22. KRS 61.623 is amended to read as follows:

(1) A recipient who begins receiving a retirement allowance August 1, 2000, or after, from the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System shall have the retirement allowance paid by electronic fund transfer to a financial institution designated by the recipient.

(2) When an individual becomes eligible to receive a monthly retirement allowance, the retirement system shall provide an authorization for deposit of retirement payment form to the recipient to have the monthly retirement allowance deposited to an account in a financial institution.

(3) The recipient and the financial institution shall provide the information and authorizations required for the electronic transfer of funds~~[from the State Treasurer's office]~~ to the designated financial institution.

(4) At any time while receiving a retirement allowance, the recipient may change the designated institution by completing a new authorization for deposit of retirement payment form and filing the form at the retirement office in Frankfort. The last authorization for deposit of retirement payment on file at the retirement office shall control the electronic transfer of the recipient's retirement allowance.

(5) (a) A recipient may request to be paid by check~~[issued by the State Treasurer]~~ instead of by electronic transfer by completing and filing at the retirement office a request for payment by check form.

(b) The request shall be approved if:

1. The recipient certifies that he does not currently have an account with a financial institution; ***or***

2. The recipient's bank certifies that it does not participate in the electronic funds transfer program~~[; or~~

~~3. The recipient shows that the requirement would create an undue hardship]~~.

(c) The retirement office shall, every five (5) years, require the recipient to certify that the original conditions under which he requested payment by check continue. If the original conditions do not exist, the recipient shall complete an authorization for direct deposit of retirement payment form and file it with the retirement office.

Section 23. KRS 61.630 is amended to read as follows:

(1) If a retired member who did not elect an optional retirement plan dies at any time after retirement but before receiving total retirement allowances provided in KRS 16.510 to 16.652, KRS 61.515 to 61.705, and KRS 78.520 to 78.852 at least equal to his accumulated contributions as of the date of his retirement, the difference between the accumulated contributions and the total allowances shall be payable in a lump sum to the properly designated beneficiary. If a living person designated as the beneficiary predeceases the retired member, the estate shall become the beneficiary. If a spouse designated as the beneficiary is divorced from the retired member as of the member's death, the estate shall become the beneficiary.

(2) If a retired member who elected an optional retirement plan and his beneficiary both die at any time after retirement of the member but before receiving total retirement allowances provided in KRS 16.510 to 16.652, KRS 61.515 to 61.705, and

KRS 78.520 to 78.852 at least equal to the retired member's accumulated contributions as of the date of his retirement, the difference between the accumulated contributions and the total allowances shall be payable in a lump sum to the estate of the last deceased, except that the retired member's estate shall receive the payment if the beneficiary was the spouse and they were divorced as of the date of the member's death. If the retired member and beneficiary die simultaneously, the estate of the retired member shall become the beneficiary.

(3) If a beneficiary receiving a lifetime retirement allowance under KRS 16.578 or 61.640 dies before receiving total retirement allowances provided in KRS 16.510 to 16.652, KRS 61.515 to 61.705, and KRS 78.520 to 78.852 at least equal to the member's accumulated contributions as of the date of the member's death, the difference between the accumulated contributions and the total allowances shall be payable in a lump sum to the estate of the beneficiary.

(4) If a beneficiary receiving a retirement allowance for one hundred twenty (120) months certain under KRS ***16.576,*** 16.578***,*** or 61.640, ***or*** a beneficiary receiving a retirement allowance under[~~ the life with ten (10) years certain option selected by the member under~~] KRS 61.635(5), ***(6) or (7),***[~~ or a beneficiary receiving a retirement allowance for the duration of ten (10) years certain as prescribed in KRS 16.576~~] dies before receiving all payments under the plan, the executor or administrator of his estate ***shall***[~~may elect to~~] receive a lump sum payment which shall be the actuarial equivalent to the remaining payments[~~, or the executor or administrator may elect to continue the remaining monthly payments to the estate of the beneficiary~~].

(5) If the system is unable to verify a recipient's whereabouts or whether the recipient is living, the system shall suspend the recipient's retirement allowance. If the recipient is located, the system shall restore to the recipient all suspended retirement allowances.

Section 24. KRS 61.640 is amended to read as follows:

(1) If an employee who is of normal retirement age or greater is in the active employment of a participating agency, or on official leave from the agency, if the leave has been granted in accordance with the policy of the state Personnel Cabinet, with service credit of forty-eight (48) months or more, at least twelve (12) of which are current service, or if an employee of less than normal retirement age is in the active employment of a participating agency or on official leave from the agency, if the leave has been granted in accordance with the policy of the state Personnel Cabinet, with service credit of sixty (60) months, at least twelve (12) of which are current service, dies at any time before the first retirement allowance payment has been issued by the ***system***[~~State Treasurer~~] and has on file at the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at date of his death, had the member been eligible for retirement and had he chosen benefits payable under KRS 61.635(2); or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain; or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain; or the beneficiary may elect the actuarial equivalent refund.

(2) If a member not in the active employment of a participating agency, nor on official leave from the agency, with the service and age prescribed in KRS 61.559(2), dies before the first retirement allowance payment has been issued by the ***system***[~~State Treasurer~~] and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at date of his death, had he chosen benefits payable under KRS 61.635(2); or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain; or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain; or the beneficiary may elect the actuarial equivalent refund.

(3) If a member, not in the active employment of a participating agency nor on official leave from the agency, with twelve (12) or more years of service credit at least one (1) of which is current service, dies at any time before the first retirement allowance payment has been issued by the ***system***[~~State Treasurer~~] and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at date of his death, had the member been eligible for retirement and had he chosen benefits payable under KRS 61.635(2); or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain; or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain; or the beneficiary may elect the actuarial equivalent refund.

(4) An alternative calculation of benefits payable to the beneficiary under subsection (1), (2), or (3) of this section shall be determined by computing an annual benefit payable commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive based on his years of service and final compensation at the date of his death reduced by the survivorship fifty percent (50%) factor as provided for in KRS 61.635(4) then reduced by fifty percent (50%), and the actuarial equivalent payable for sixty (60) months certain and one hundred twenty (120) months certain and the actuarial equivalent refund shall be determined.

(5) If the member, subject to subsection (1), (2), (3), or (4) of this section had on file in the retirement office a written designation of multiple beneficiaries, his estate, trust, or trustee, the multiple beneficiaries by consensus, the administrator,

or executor of the estate, or trustee may elect to receive the actuarial equivalent to the benefit allowable under subsections (1), (2), (3), or (4) of this section given the assumptions that the beneficiary's age is the same as the member's, and that the member had chosen benefits payable monthly for sixty (60) months certain, or one hundred and twenty (120) months certain, or an actuarial equivalent refund.

(6) Actuarial equivalent refund. The beneficiary may elect to receive a one (1) time lump-sum payment which shall be the actuarial equivalent to the amount payable under KRS 61.635(2) for a period of sixty (60) months. In the case of designation of multiple beneficiaries, an estate, trust, or trustee, the multiple beneficiaries by consensus, trustee, executor, or administrator of the estate may elect to receive a one (1) time lump-sum payment which shall be the actuarial equivalent of the amount payable under KRS 61.635(2), assuming the beneficiary's age to be the same as the member's for a period of sixty (60) months.

(7) In the case of a single beneficiary, who is a person, the highest monthly benefit determined under subsection (1), (2), (3), (4), or (6) of this section for a life annuity or for payments for sixty (60) months certain or for payments for one hundred twenty (120) months certain or for the actuarial equivalent refund or for the~~[beneficiary]~~ Social Security ***adjustment option***~~[payment]~~ shall be tendered to the beneficiary. In the case of designation of multiple beneficiaries, an estate, trust, or trustee, the highest monthly benefit determined under subsection (1), (2), (3), (4), (5), or (6) of this section for payments for sixty (60) months certain or one hundred and twenty (120) months certain or the actuarial equivalent refund shall be tendered to the multiple beneficiaries, trustee, administrator, or executor of the estate.

(8) Payments of taxable distributions made pursuant to this section shall be subject to state and federal income tax as appropriate.

Section 25. KRS 61.645 is amended to read as follows:

(1) The County Employees Retirement System, Kentucky Employees Retirement System, and State Police Retirement System shall be administered by the board of trustees of the Kentucky Retirement Systems composed of nine (9) members, who shall be selected as follows:

(a) The secretary of the Personnel Cabinet shall serve as trustee for as long as he occupies the position of secretary under KRS 18A.015, except as provided under subsections (5) and (6) of this section;

(b) Two (2) trustees, who shall be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System;

(c) One (1) trustee, who shall be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;

(d) Two (2) trustees, who shall be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System; and

(e) Three (3) trustees, appointed by the Governor of the Commonwealth. Of the three (3) trustees appointed by the Governor, one (1) shall be knowledgeable about the impact of pension requirements on local governments.

(2) The board is hereby granted the powers and privileges of a corporation, including but not limited to the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing, medical, and other professional or technical services as required to carry out the obligations of the board without limitation, notwithstanding the provisions of KRS Chapters 45, 45A, 56, and 57;

(e) To purchase fiduciary liability insurance;

(f) To acquire, hold, sell, dispose of, pledge, lease, or mortgage, the goods or property necessary to exercise the board's powers and perform the board's duties without limitation, notwithstanding the limitations of KRS Chapters 45, 45A, and 56; and

(g) The board shall reimburse any trustee***,***~~[or]~~ officer***, or employee*** for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section. An elected trustee shall not serve more than three (3) consecutive four (4) year terms. An elected trustee who has served three (3) consecutive terms may be elected again after an absence of four (4) years from the board.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board may nominate, not less than six (6) months before a term of office of a trustee is due to expire, three (3) constitutionally eligible individuals;

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the executive director, not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by the retirement system members;

(c) Within four (4) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the executive director shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes;

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;

(e) The ballots shall be addressed to the Kentucky Retirement Systems in care of a predetermined box number at a United States Post Office located within Kentucky. Access to this post office box shall be limited to the board's contracted auditing firm. The individual receiving a plurality of votes shall be declared elected;

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall sign and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;

(g) The board's contracted auditing firm shall report in writing the outcome to the chair of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and if the secretary of the Personnel Cabinet resigns his position as trustee, it shall be filled by appointment made by the Governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) (a) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee shall serve in more than one (1) position as trustee on the board; and if a trustee holds more than one (1) position as trustee on the board, he shall resign a position.

(b) A trustee shall be removed from office upon conviction of a felony or for a finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court of competent jurisdiction.

(7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of eighty dollars ($80) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chair or the executive director. It shall elect a chair and a vice chair. A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) (a) The board of trustees shall appoint or contract for the services of an executive director and fix the compensation and other terms of employment for this position without limitation of the provisions of KRS Chapters 18A and 45A and KRS 64.640. The executive director shall be the chief administrative officer of the board.

(b) The board of trustees shall authorize the executive director to appoint the employees deemed necessary to transact the business of the system. For an appointee deemed to be in a policy-making position, the board shall determine the compensation and other terms of employment for the policy-making position without limitation of the provisions of KRS Chapter 18A. Anything in the Kentucky Revised Statutes to the contrary notwithstanding, the power over and control of determining and maintaining an adequate complement of employees shall be under the exclusive jurisdiction of the board of trustees.

(c) Effective December 1, 2002, all employees of the Kentucky Retirement Systems shall be transferred to a personnel system adopted by the board. Employees of Kentucky Retirement Systems covered by the personnel system adopted by the board shall be:

1. Provided the same health insurance coverage as all other state government employees as provided in KRS 18A.225;
2. Eligible to participate in the deferred compensation system provided for all state government employees as provided in KRS 18A.250 to 18A.265;
3. Provided the same life insurance coverage provided all state employees as provided in KRS 18A.205 to 18A.215;
4. Reimbursed for all reasonable and necessary travel expenses and disbursements incurred or made in the performance of official duties in accordance with KRS Chapter 45;
5. Ensured equal employment opportunity regardless of race, color, gender, religion, national origin, disability, sexual orientation, or age;
6. Given those holidays and rights granted to state employees as provided in KRS 18A.190;
7. Paid a salary not less than the salary paid as of the date of transfer to the personnel system, unless voluntarily demoted or involuntarily demoted for cause;
8. Credited with all accumulated sick leave, compensatory time, and annual leave accumulated in accordance

with KRS Chapter 18A, and for an employee leaving service, the system shall attest to the employee's accumulated sick leave, compensatory time, and annual leave which shall be credited with other state and county employers to the extent provided for by statute or policy. The Kentucky Retirement Systems may, at the discretion of the board, accept from other state and county employers all accumulated sick leave, compensatory time, and annual leave for an employee leaving a state or county employer and accepting employment with the Kentucky Retirement Systems. The executive branch shall accept from the Kentucky Retirement Systems all accumulated sick leave, compensatory time, and annual leave for an employee leaving the Kentucky Retirement Systems and accepting employment with the executive branch. The Kentucky Retirement Systems shall accept from the executive branch all accumulated sick leave, compensatory time, and annual leave for an employee leaving the executive branch and accepting employment with the Kentucky Retirement Systems;

9. Classified with status upon transfer to the personnel system on December 1, 2002, if the employee was classified with status as a merit employee under KRS Chapter 18A. Any employee of the Kentucky Retirement Systems transferred on December 1, 2002, during the probationary period before earning classified status as a merit system employee under KRS Chapter 18A shall transfer all accrued probationary time and the time shall be credited to the probationary time required to attain classified status in the personnel system;
10. Ensured a grievance appeal procedure and the employee's right to have a representative present at each step of the grievance procedure; and
11. Ensured of the right of appeal in a manner consistent with the provisions of KRS 18A.095 to the Kentucky Personnel Board and employees classified with status in the personnel system shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.

(d) The board shall adopt by administrative regulation a fair, equitable, and comprehensive personnel policy with a minimum of the following provisions for the personnel system:

1. A code of conduct including provisions describing performance of duties, abuse of position, conflicts of interest, and outside employment;
2. An appointments plan including provisions describing the appointing authority, appointments, equal employment policy, sexual harassment policy, and drug-free workplace policy;
3. A classification plan including provisions describing class specifications, position actions, and employee actions;
4. A compensation plan based on qualifications, experience, and responsibilities and including provisions which describe a salary schedule, salary adjustments, salary advancements, and an employee suggestion program;
5. Separations, disciplinary actions, and appeal policies including provisions describing classified with status, exemptions from classified with status, layoffs, abolishment of position, dismissals and notification of dismissal, dismissals during probationary period, disciplinary actions, right of appeal, grievance and appeal procedures, and an employee grievance and appeal committee;
6. Service and benefits regulations including provisions describing hours of work, fringe benefits, workers' compensation, payroll deductions, holidays, inclement weather days, compensatory time, retirement, resignations, employee evaluations, and political activities; and
7. Leave policies including provisions describing special leave, annual leave, court leave and jury duty, military leave, voting leave, educational leave, sick leave, family medical leave, leave without pay, absence without leave, and blood donation leave.

(e) The board shall require the executive director and the employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.

(f) The board shall establish a system of accounting.

(g) The board shall do all things, take all actions, and promulgate all administrative regulations, not inconsistent with the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852, necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852 conform with federal statute or regulation and meet the qualification requirements under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance. Provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852 which conflict with federal statute or regulation or qualification under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance shall not be available. The board shall have the authority to promulgate administrative regulations to conform with federal statute and regulation and to meet the qualification requirements under 26 U.S.C. sec. 401(a), including an administrative regulation to comply with 26 U.S.C. sec. 401(a)(9). The board shall have the authority to promulgate an administrative regulation to comply with any consent decrees entered into by the board in Civil Action No. 3:99CV500(C) in order to bring the systems into compliance with the Age Discrimination in Employment Act, 29 U.S.C. Section 621, et seq., as amended.

(10) All employees of the board shall serve during its will and pleasure. Notwithstanding any statute to the contrary, employees shall not be considered legislative agents under KRS 6.611.

(11) The Attorney General, or an assistant designated by him, may attend each meeting of the board and may receive the agenda, board minutes, and other information distributed to trustees of the board upon request. The Attorney General may act as legal adviser and attorney for the board, and the board may contract for legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.

(12) The system shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The system shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the office of the executive director of the Kentucky Retirement Systems and in other places as necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. *Notwithstanding the provisions of KRS Chapter 48 or* any other statute to the contrary notwithstanding, *the board shall adopt a budget on a fiscal year basis that is sufficient, as determined by the board, to perform the board's duties and, as appropriate and reasonable, to draw upon the retirement allowance account to fund the budget. The board shall expend money, including income from investments, for effecting the system's purposes. No later than June 30 of each year, the board shall report its budget for the upcoming fiscal year to the Governor, the General Assembly, and the state budget director for examination. The report of the budget shall set forth a complete operating and financial statement covering the system operation for the upcoming fiscal year. The board shall exercise all powers necessary, convenient, or appropriate to carry out and effect its public and corporate purpose and to conduct its business. The board's powers and the system's powers specified in KRS 16.510 to 16.652, 61.515 to 61.705, and 78.520 to 78.852 shall be interpreted broadly to effect the purpose of KRS 16.510 to 16.652, 61.515 to 61.705, and 78.520 to 78.852 and shall not be construed as a limitation of powers*[~~authorization for all expenditures relating to the administrative operations of the system shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48~~].

(14) Any person adversely affected by a decision of the board, except as provided under subsection (16) of this section or KRS 61.665, involving KRS 16.510 to 16.652, 61.515 to 61.705, and 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within sixty (60) days of the board action.

(15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:

1. In good faith;
2. On an informed basis; and
3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.

(b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.

(c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;
2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or
3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.

(d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by paragraph (c) of this subsection unwarranted.

(e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:

1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and

2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.

(f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraphs (e)1. and (e)2. of this subsection, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.

(g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.

(16) When an order by the system substantially impairs the benefits or rights of a member, retired member, or recipient, except action which relates to entitlement to disability benefits, the affected member, retired member, or recipient may request a hearing to be held in accordance with KRS Chapter 13B. The board may establish an appeals committee whose members shall be appointed by the chair and who shall have authority to act upon the recommendations and reports of the hearing officer on behalf of the board. The member, retired member, or recipient aggrieved by a final order of the board following the hearing may appeal the decision to the Franklin Circuit Court, in accordance with KRS Chapter 13B.

(17) The board shall give the Kentucky Education Support Personnel Association twenty-four (24) hours notice of the board meetings, to the extent possible.

Section 26. KRS 61.650 is amended to read as follows:

(1) (a) The board shall be the trustee of the several funds created by KRS 16.510, 61.515, 61.701, and 78.520, notwithstanding the provisions of any other statute to the contrary, and shall have exclusive power to invest and reinvest such funds in accordance with federal law.

(b) The board may establish an investment committee whose members shall be appointed by the board chair. The investment committee shall have authority to implement policy and act on behalf of the board on all investment-related matters with full power to acquire, sell, safeguard, monitor, and manage the assets and securities of the several funds.

(c) A trustee***, officer, employee,*** or other fiduciary shall discharge duties with respect to the retirement system:

1. Solely in the interest of the members and beneficiaries;
2. For the exclusive purpose of providing benefits to members and beneficiaries and paying reasonable expenses of administering the system;
3. With the care, skill, and caution under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose;
4. Impartially, taking into account any differing interests of members and beneficiaries;
5. Incurring any costs that are appropriate and reasonable; and
6. In accordance with a good-faith interpretation of the law governing the retirement system.

(2) All[~~ registered~~] securities acquired under authority of KRS 61.510 to 61.705 shall be registered in the name "Kentucky Retirement Systems" or nominee name as provided by KRS 287.225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished by the signatures of the chair of the board of trustees or a trustee appointed by the chair and the executive director of the systems.

(3) The board, in keeping with its responsibility as trustee and wherever consistent with its fiduciary responsibilities, shall give priority to the investment of funds in obligation calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

(4) The contents of real estate appraisals, engineering or feasibility estimates, and evaluations made by or for the system relative to the acquisition or disposition of property, until such time as all of the property has been acquired or sold, shall be excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction.

Section 27. KRS 61.660 is amended to read as follows:

[~~(1) The State Treasurer shall be the custodian of the funds received under authority of KRS 61.510 to 61.705, 16.510 to 16.652 and 78.510 to 78.852 and shall be responsible for the safekeeping of all cash and securities in his custody. All payments from the fund shall be made by him on warrants issued by the Finance and Administration Cabinet. Payments may be in the form of checks, which shall clearly show on the envelope or other mailing device the name and address of the Kentucky Retirement Systems, or direct deposit bank transfers.~~

~~(2)~~]The board shall appoint a custodian or custodians of the ***cash and*** securities acquired under authority of KRS 61.510 to 61.705, 16.510 to 16.652, and 78.510 to 78.852; and the custodian or custodians shall be responsible for the safekeeping of ***all cash and*** securities in his custody.

Section 28. KRS 61.665 is amended to read as follows:

(1) The board shall employ at least three (3) physicians, licensed in the state and not members of the system, upon terms and conditions it prescribes to serve as medical examiners, whose duty it shall be to pass upon all medical examinations

required under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, to investigate all health or medical statements and certificates made by or in behalf of any person in connection with the payment of money to the person under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, and who shall report in writing to the system the conclusions and recommendations upon all matters referred to them. The board may employ one (1) or more licensed mental health professionals~~[as consultants to assist]~~ in making *recommendations regarding*~~[determinations where there is objective medical evidence of]~~ mental impairments.

(2) (a) Each *person*~~[employee]~~ requesting disability retirement shall file at the retirement office *an application for disability retirement and supporting medical*~~[the names and addresses of all, but no fewer than two (2), physicians who have the necessary]~~ information to report the *person's*~~[employee's]~~ physical and mental condition. The *person*~~[employee]~~ shall also file at the retirement office a complete description of the job and duties from which he received his last pay as well as evidence that the *person*~~[employee]~~ has made a request for reasonable accommodation as provided for in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630. *The person shall certify to the retirement office that the application for disability retirement and supporting medical information are ready to be evaluated by the medical examiners in accordance with paragraph (d) of this subsection.* If *the person*~~[an employee]~~ fails to file, at the retirement office within *one hundred eighty (180) days*~~[six (6) months]~~ of the date the *person*~~[employee]~~ filed his notification of retirement, any of the *forms, certifications, or* information required by this subsection, the *person's*~~[employee's]~~ application for disability *retirement*~~[benefits]~~ shall be void. *Any subsequent filing of an application for disability retirement or supporting medical information shall not be evaluated, except as provided in paragraph (f) of this subsection or subsection (1)(e) of Section 17 of this Act.*

(b) The employer shall file at the retirement office a complete description of the job and duties for which the *person*~~[employee]~~ was last paid and shall submit a detailed description of reasonable accommodations attempted.

(c)~~[The board shall prescribe forms upon which medical evidence shall be recorded. The forms shall be sent to the employee's physicians with the request that the documents be completed and filed at the retirement office.~~

~~(d)]~~ The cost of~~[a]~~ medical *examinations and the filing of the medical information, reports, or data with the retirement office*~~[examination]~~ shall be paid by the *person applying for disability retirement*~~[employee. The physicians shall be paid a reasonable amount by the retirement system for the filing of the medical report with the retirement office, pursuant to an administrative regulation promulgated by the board]~~.

(d)~~[(e)]~~The system shall select *three (3)*~~[a]~~ medical *examiners*~~[examiner]~~ to evaluate the medical evidence submitted by the *person*~~[employee's physician]~~. The *medical examiners*~~[examiner]~~ shall recommend that disability retirement be approved, or that disability retirement be denied.~~[If the medical examiner recommends denial of disability benefits, the system shall submit the member's application to one (1) additional medical examiner. If the second medical examiner recommends approval, the application shall be submitted to a third medical examiner. Both of the additional medical examiners shall recommend approval of disability benefits to overturn the original recommendation.]~~ If there is~~[objective medical]~~ evidence of *a* mental *impairment*~~[impairments]~~, the medical examiners may request the board's licensed mental health professional to assist in determining the level of the mental impairment.~~[Recommendations by the examiners shall be submitted to the board for approval.]~~

(e)~~[(f)]~~ If *two (2) or more of* the *three (3)* medical examiners recommend that the *person*~~[employee]~~ be approved for disability retirement, the *system*~~[executive director]~~ shall make retirement payments in accordance with the retirement plan selected by the *person*~~[employee]~~.

(f)~~[(g)]~~ If *two (2) or more of* the *three (3)* medical examiners recommend that the *person*~~[employee]~~ be denied disability retirement, the *system*~~[executive director]~~ shall *send notice of this recommendation by United States first class mail to the person's last address on file in the retirement office*~~[notify the employee of this recommendation]~~. The *person*~~[employee]~~ shall have *one hundred eighty (180)*~~[sixty (60)]~~ days *from the day that the system mailed the notice* to file at the retirement office additional *supporting* medical information *and certify to the retirement office that the application for disability retirement and supporting medical information are ready to be evaluated by the medical examiners* or to appeal his denial *of*~~[for]~~ disability *retirement*~~[benefits]~~ by filing at the retirement office a request for a formal hearing. *Any subsequent filing of an application for disability retirement or supporting medical information shall not be evaluated, except as provided in subsection (1)(e) of Section 17 of this Act*~~[An extension of time may be granted by the system for a medical examiner to evaluate additional medical information. The extensions of time shall not be for more than sixty (60) days for any one (1) extension, and no more than three (3) extensions shall be granted. The cumulative extension of time shall not exceed one hundred twenty (120) days. The extension of time shall end upon request of a formal hearing]~~.

(g) If two (2) or more of the three (3) medical examiners recommend that the person be approved for disability retirement based upon the evaluation of additional supporting medical information in accordance with paragraph (f) of this subsection, the system shall make retirement payments in accordance with the retirement plan selected by the person.

(h) *If two (2) or more of the three (3) medical examiners recommend that the person be denied disability retirement based upon the evaluation of additional supporting medical information in accordance with paragraph (f) of this subsection, the system shall send notice of this recommendation by United States first class mail to the*

person's last address on file in the retirement office. The person shall have one hundred eighty (180) days from the day that the system mailed the notice to appeal his denial of disability retirement by filing at the retirement office a request for a formal hearing.

(i) The medical examiners shall be paid a reasonable amount by the retirement system for each case evaluated.

(j)~~[(i)]~~ Notwithstanding the foregoing provisions of this section, the system may pay for one (1) or more medical examinations ***of the person*** requested by the ***medical*** examiners for the purpose of providing medical information deemed necessary by the ***medical*** examiners. The system may ***require the person to submit to one (1) or more medical examinations***~~[direct that a specialist be sought]~~.

(3) ~~[Any person aggrieved by a final order or determination of the system may file at the retirement office a request that a hearing be conducted by the system in accordance with KRS Chapter 13B. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice, as described in subsection (6) of this section, of the system's determination. If any extensions of time are granted by the system, they shall be as provided for in subsection (2)(g) of this section.]~~

(a) Any person whose disability benefits have been reduced, discontinued, or denied pursuant to subsection ***(2)(f) or (2)(h)***~~[(2)(g)]~~ of this section~~[or KRS 61.615(1)]~~ may file at the retirement office a request for ***a formal***~~[an administrative]~~ hearing ***to be conducted in accordance with KRS Chapter 13B***~~[with the system]~~. The right to demand a ***formal*** hearing shall be limited to a period of ***one hundred eighty (180)***~~[sixty (60)]~~ days after the ***person***~~[requester has]~~ had notice ***of the system's determination***, as described in subsection ***(2)(f) or (2)(h)***~~[(6)]~~ of this section~~[, of the system's determination]~~. The request ***for a formal hearing*** shall be filed with the executive director, at the ***retirement***~~[system's central]~~ office in Frankfort. The request for a ***formal*** hearing shall include a short and plain statement of the reasons the~~[reduction, discontinuance, or]~~ denial of disability ***retirement***~~[benefits]~~ is being contested.~~[The request shall not operate as a stay of any reduction, discontinuance, or denial of benefits.]~~

(b) Failure of the ***person***~~[member]~~ to request a formal hearing within the period of time specified shall preclude the ***person***~~[member]~~ from proceeding any further with ***the application for disability retirement***~~[his cause of action]~~, except as provided in KRS 61.600(1)(e). This paragraph shall not limit the ***person's***~~[member's]~~ right to appeal to a court.

(c) The system may require the ***person***~~[member]~~ requesting the formal hearing to submit to one (1) or more medical or psychological examinations. Notice of the time and place of the examination shall be mailed to the ***person***~~[member]~~ or his legal representative. The system shall be responsible for the cost of the examination.

(d) A final order of the board shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the board and the facts and law upon which the decision is based.

(e)~~[A final order of the board which alters or amends the decision recommended pursuant to subsection (2)(g) of this section shall relate back and take effect on the date of the recommendation.~~

~~(f)]~~ All requests for a hearing pursuant to this section shall be made in writing.

(4) The board may establish an appeals committee whose members shall be appointed by the chair and who shall have the authority to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of the board.

(5) Any person aggrieved by a final order of the board may seek judicial review after all administrative appeals have been exhausted by filing a petition for judicial review in the Franklin Circuit Court in accordance with KRS Chapter 13B.

(6) The system, pursuant to regulations, may refer an employee determined by it to be disabled to the Kentucky Office of Vocational Rehabilitation for evaluation and, if appropriate, retraining.

(a) The cost of the evaluation and retraining shall be paid by the system in accordance with the regulations established by the board.

(b) The member shall perform all acts that are necessary to enroll in and satisfy the requirements of Vocational Rehabilitation as prescribed by the board. This shall include the exchange of confidential information between Kentucky Retirement Systems and the Kentucky Office of Vocational Rehabilitation as necessary to conduct the rehabilitation process. Failure of the member to cooperate with the system or Vocational Rehabilitation may result in his disability allowance being discontinued, reduced, or denied until the member complies with the agency requests. If the refusal continues for one (1) year, all his rights to any further disability allowance shall cease.

Section 29. KRS 61.675 is amended to read as follows:

(1) The employer shall prepare the records and, from time to time, shall furnish the information the system may require in the discharge of its duties. Upon employment of an employee, the employer shall inform him of his duties and obligations in connection with the system as a condition of employment.

(2) The system may at any time conduct an audit of the employer in order to determine if the employer is complying with the provisions of KRS 16.505 to 16.652, 61.610 to 61.705, or 78.510 to 78.852. The system shall have access to and may examine all books, accounts, reports, correspondence files, and records of any employer. Every employer, employee, or agency reporting official of a department or county, as defined in KRS 78.510(3), having records in his possession or

under his control, shall permit access to and examination of the records upon the request of the system.

(3) Any agency participating in the Kentucky Employees Retirement System which is not an integral part of the executive branch of state government shall forward the employer and employee contributions required under KRS 61.560 and 61.565 to the retirement office ***on or before***[~~within twenty (20) days of~~] the tenth day of the month following the period being reported. If the agency fails to forward all contributions ***on or before the tenth day of the month following the period being reported***[~~within the twenty (20) days~~], interest ***on the delinquent contributions*** at the actuarial rate adopted by the board compounded annually[~~ on the delinquent contributions~~], but not less than one ***thousand***[~~hundred~~] dollars ***($1,000)***[~~($100)~~], shall be added to the amount due the system.

Section 30. KRS 61.685 is amended to read as follows:

(1) Notwithstanding the provisions of KRS Chapter 413, upon discovery of any error in system records, the system shall correct all records including, but not limited to, membership in the system, service credit, member and employer contributions, and benefits paid or payable. ***The system may conduct audits to detect possible fraud, misrepresentation, and change in circumstance, which may result in errors or omissions in the system's records. The system, by its executive director or by representatives appointed in writing by the executive director, may take testimony or depositions, and may examine records, documents, or files of any person whose records, documents, or files may furnish knowledge concerning any system records, when the executive director or representative deems this reasonably necessary for purposes incident to the performance of the system's functions. The system may enforce these powers by application to the Franklin Circuit Court, which court may compel compliance with the orders of the executive director or representatives appointed by the executive director.***

(2) Neither the board nor any of its individual members shall be liable to any person for any claim arising from the failure of any participating employer, or any employer who should have been participating in any retirement system operated by the board, to make retirement contributions on behalf of the person.

Section 31. KRS 61.701 is amended to read as follows:

(1) There is hereby created and established a[~~ state~~] fund to be known as "Kentucky Retirement Systems Insurance Fund." ***All assets received in the fund shall be deemed trust funds to be held and applied solely as provided in this section.***

(2) The fund is created pursuant to 26 U.S.C. sec. 106 for the purpose of providing a fund separate from the retirement funds and is to be used to provide fringe benefits as provided in KRS 61.702 to retired recipients and employees of employers participating in the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System, and to certain of their dependents or beneficiaries.

(3) The fund shall be administered by the board of trustees of the Kentucky Retirement Systems and the board shall manage the assets of the fund in the same manner in which it administers the retirement funds.

Section 32. KRS 61.702 is amended to read as follows:

(1) (a) The board of trustees of Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System, except as provided in subsection (8) of this section. The board shall also arrange to provide health care coverage by health maintenance organizations, as defined in KRS 18A.225, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section. Any person who chooses coverage by a health maintenance organization shall pay, by payroll deduction from the retirement allowance or by another method, the difference in premium between the cost of health maintenance organization coverage and the benefits to which he would be entitled under this section.

(b) The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems to be included in the state employees' group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status, except as provided in subsection (8) of this section. Notwithstanding the provisions of any other statute, recipients shall be included in the same class as current state employees in determining medical insurance policies and premiums.

(c) For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status, the board shall provide a medical insurance reimbursement plan as described in subsection (7) of this section.

(2) Each employer participating in the State Police Retirement System as provided for in KRS 16.510 to 16.652, each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute to the Kentucky Retirement Systems insurance fund the amount necessary to provide hospital and medical insurance as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate to each respective retirement system determined under KRS 61.565.

(3) (a) The premium required to provide hospital and medical benefits under this section shall be paid:

1. Wholly or partly from funds contributed by the recipient of a retirement allowance, by payroll deduction, or otherwise;
2. Wholly or partly from funds contributed by the Kentucky Retirement Systems insurance fund;
3. Wholly or partly from funds contributed by another state-administered retirement system under a reciprocal arrangement, except that any portion of the premium paid from the Kentucky Retirement Systems insurance fund under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the member's service were in one (1) of the systems administered by the Kentucky Retirement Systems;
4. Partly from subparagraphs 1., 2., or 3., except that any premium for hospital and medical insurance over the amount contributed by the Kentucky Retirement Systems insurance fund or another state-administered retirement system under a reciprocal agreement shall be paid by the recipient. If the board provides for cross-referencing of insurance premiums, the employer's contribution for the working member or spouse shall be applied toward the premium, and the Kentucky Retirement Systems insurance fund shall pay the balance, not to exceed the monthly contribution.
5. In full from the Kentucky Retirement Systems insurance fund for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) and had two hundred and forty (240) months or more of service upon retirement. Should such recipient have less than two hundred forty (240) months of service but have at least one hundred eighty (180) months of service, seventy-five percent (75%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. Notwithstanding the foregoing provisions of this subsection, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who becomes disabled in the line of duty as defined in KRS 16.505(19) or KRS 61.621, shall have his premium paid in full as if he had two hundred forty (240) months or more of service. Further, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who is killed in the line of duty as defined in KRS 16.505(19) or KRS 61.621, shall have the premium for the beneficiary, if the beneficiary is the member's spouse, and for each dependent child paid so long as they individually remain eligible for a monthly retirement benefit. "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3) retirement systems, except service added to determine disability benefits shall not be counted as "months of service."

(b) For a member electing insurance coverage through the Kentucky Retirement Systems, "months of service" shall include, in addition to service as described in paragraph (a) of this subsection, service credit in one of the other state-administered retirement plans.

1. Effective August 1, 1998, the Kentucky Retirement Systems shall compute the member's combined service, including service credit in another state-administered retirement plan, and calculate the portion of the member's premium to be paid by the insurance fund, according to the criteria established in paragraph (a) of this subsection. Each state-administered retirement plan annually shall pay to the insurance fund the percentage of the system's cost of the retiree's monthly contribution for single coverage for hospital and medical insurance which shall be equal to the percentage of the member's number of months of service in the other state-administered retirement plan divided by his total combined service. The amounts paid by the other state-administered retirement plans and the insurance fund shall not be more than one hundred percent (100%) of the monthly contribution adopted by the respective boards of trustees.
2. A member may not elect coverage for hospital and medical benefits under this subsection through more than one (1) of the state-administered retirement plans.
3. A state-administered retirement plan shall not pay any portion of a member's monthly contribution for medical insurance unless the member is a recipient or annuitant of the plan.

(4) (a) Group rates under the hospital and medical insurance plan shall be made available to the spouse, ***each dependent child***~~[dependents]~~, and ***each*** disabled ***child***~~[children]~~, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the premium for the ***hospital and medical insurance for the*** spouse, ***each*** dependent ***child***, ***and each*** disabled child, or beneficiary~~[hospital and medical insurance]~~ is paid by payroll deduction from the retirement allowance or by another method. A child shall be considered disabled if he has been

determined to be eligible for federal Social Security disability benefits.

(b) The other provisions of this section notwithstanding, the insurance fund shall pay a percentage of the monthly contribution for the spouse and ***for each dependent child***[~~dependents~~] of a recipient who was a member of the General Assembly and is receiving a retirement allowance based on General Assembly service, of the Kentucky Employees Retirement System and determined to be in a hazardous position, of the County Employees Retirement System, and determined to be in a hazardous position or of the State Police Retirement System[~~, or the beneficiary of the member, if the member designated only one (1) person as beneficiary~~]. The percentage of the monthly contribution paid for the spouse and ***each dependent child***[~~dependents~~] of a recipient who was in a hazardous position shall be based solely on the member's service with the State Police Retirement System or service in a hazardous position using the formula in subsection (3)(a) of this section, except that for any recipient of a retirement allowance from the County Employees Retirement System who was contributing to the system on January 1, 1998, for service in a hazardous position, the percentage of the monthly contribution shall be based on the total of hazardous service and any nonhazardous service as a police or firefighter with the same agency, if that agency was participating in the County Employees Retirement System but did not offer hazardous duty coverage for its police and firefighters at the time of initial participation.

(c) The insurance fund shall continue the same level of coverage for a recipient who was a member of the County Employees Retirement System after the age of sixty-five (65) as before the age of sixty-five (65), if the recipient is not eligible for Medicare coverage. If the insurance fund provides coverage for the spouse or ***each dependent child***[~~dependents or beneficiary~~] of a former member of the County Employees Retirement System, the insurance fund shall continue the same level of coverage for the spouse or ***each*** dependent ***child***[~~or beneficiary~~] after the age of sixty-five (65) as before the age of sixty-five (65), if the spouse or dependent ***child***[~~or beneficiary~~] is not eligible for Medicare coverage.

(5) After July 1, 1998, notwithstanding any other provision to the contrary, a member who holds a judicial office but did not elect to participate in the Judicial Retirement Plan and is participating instead in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System, as provided in KRS 61.680, and who has at least twenty (20) years of total service, one-half (1/2) of which is in a judicial office, shall receive the same hospital and medical insurance benefits, including paid benefits for spouse and dependents, as provided to persons retiring under the provisions of KRS 21.427. The Administrative Office of the Courts shall pay the cost of the medical insurance benefits provided by this subsection.

(6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

(7) The board shall promulgate an administrative regulation to establish a medical insurance reimbursement plan to provide reimbursement for hospital and medical insurance premiums of recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky and having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance at the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly premium determined under subsection (3) of this section. The plan shall not be made available if all recipients are eligible for the same coverage as recipients living in Kentucky.

(8) For employees ***having a membership date***[~~hired~~] on or after July 1, 2003, participation in the insurance benefits provided under this section shall not be allowed until the employee has earned at least one hundred twenty (120) months of service in the state-administered retirement systems. An employee who earns at least one hundred twenty (120) months of service in the state-administered retirement systems shall be eligible for benefits determined using the formula in subsection (3) of this section for a recipient with one hundred twenty (120) or more months of service. The one hundred twenty (120) months of service requirement shall be waived for a member who is disabled or killed in the line of duty as defined in KRS 16.505(19) or KRS 61.621, and the member or his beneficiary shall be entitled to the benefits payable under subparagraph (3)(a)5. of this section. The benefits of this subsection as provided on July 1, 2003, and thereafter shall not be considered as benefits protected by the inviolable contract provisions of KRS 61.692, 16.652, and 78.852. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in their judgment the welfare of the Commonwealth so demands.

Section 33. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the County Employees Retirement System;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county

government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation", including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the ***system in which it is recorded if it is equal to or greater than one thousand dollars ($1,000)***[~~employer~~]. If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other items determined by the board shall be excluded. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4);

(14) "Final compensation" means:

(a) For a member who is employed in a nonhazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used; or

(b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance; or

(c) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852;

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary, also referred to as probationary, positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or

(d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;

(22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "School term or year" means the twelve (12) months from July 1 through the following June 30;

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula in KRS 61.5525, except the determination of the actuarial cost for classified employees of a school board shall be based on their final compensation, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615; and

(32) "Month" means a calendar month.

Section 34. KRS 78.520 is amended to read as follows:

There is hereby created and established:

(1) A retirement system for employees to be known as the "County Employees Retirement System" by and in which name it shall, pursuant to the provisions of KRS 78.510 to 78.852, transact all of its business and shall have the powers and privileges of a corporation; and

(2) A state fund, called the "County Employees Retirement Fund," which shall consist of all the assets of the system as set forth in KRS 78.510 to 78.852. ***All assets received in the fund shall be deemed trust funds to be held and applied solely as provided in KRS 78.510 to KRS 78.852.***

Section 35. KRS 78.540 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating county after the date the county first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3), and except that mayors and members of city legislative bodies may decline prior to their participation in the system and city managers or other appointed local government executives who participate in a retirement system, other than Social Security,[~~ which operates in more than one (1) state,~~] may decline prior to their participation in the system;

(2) (a) All persons who are employees of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following the county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.520 to 78.852;

(b) All persons who are employees of a county who did not elect to participate within thirty (30) days of the date the county first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the county's date of participation;

(3) All persons who declined participation in subsection (1) of this section and who later elect to participate. Persons who elect to participate under this subsection may purchase service credit for any prior years by paying a delayed contribution payment. The service shall not be included in the member's total service for purposes of determining benefits under KRS. 61.702; and

(4) All persons electing coverage in the system under KRS 78.530(3)(d).

(5) The provisions of subsections (1) and (2) of this section notwithstanding, cities which participate in the CERS and close existing local pension systems to new, or all members pursuant to the provisions of KRS 78.530, 95.520, 95.621, or 95.852 shall not be required to provide membership in the County Employees Retirement System to employees in any employee category not covered by a city pension system at the date of participation.

(6) Membership in the system shall not include those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360.

Section 36. KRS 78.625 is amended to read as follows:

(1) The agency reporting official of the county shall, by the tenth day of each month, forward to the system an amount equal to the aggregate amount of the employees' contributions deducted during the previous month in accordance with KRS 78.610 and the aggregate amount of the employer's contributions due for the previous month in accordance with KRS 61.565.

(2) The agency reporting official or some other person designated by the county shall forward a record of all contributions to the system on the forms the board prescribes.

(3) (a) If the agency reporting official fails to forward all contributions ***on or before***[~~by~~] the ***tenth***[~~twentieth~~] day of the month following the period being reported, interest ***on the delinquent contributions*** at the actuarial rate adopted by the board compounded annually[~~ on the delinquent contributions~~], but not less than one ***thousand***[~~hundred~~] dollars ***($1,000)***[~~($100)~~], shall be added to the amount due the system.

(b) Delinquent contributions, with interest at the rate adopted by the board compounded annually, or penalties may be recovered by action in the Franklin Circuit Court against the county liable or may, at the request of the board, be deducted from any other moneys payable to the county by any department or agency of the state.

(4) If an agency is delinquent in the payment of contributions due in accordance with any of the provisions of KRS 78.510 to 78.852, refunds and retirement allowance payments to members of this agency may be suspended until the delinquent contributions***, with interest at the rate adopted by the board compounded annually, or penalties*** have been ***paid to the system***[~~made~~].

Section 37. KRS 78.790 is amended to read as follows:

(1) The board shall be the trustee of the several funds created by KRS 78.510 to 78.852, and shall have full power to invest and reinvest such funds subject to the limitations that no investments shall be made except upon the exercise of bona fide discretion, in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by

fiduciaries in this state except that the board may, at its discretion, purchase common stocks in corporations that do not have a record of paying dividends to their stockholders. Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds.

(2) All~~[registered]~~ securities acquired under the authority of KRS 78.510 to 78.852 shall be registered in the name Kentucky Retirement Systems or nominee name as provided by KRS 287.225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished by the signatures of the chair of the board of trustees or a trustee appointed by the chair and executive director of the systems.

(3) The board, in keeping with its responsibility as the trustee and wherever feasible, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

Section 38. The following KRS sections are repealed:

16.537 Service credit for other public employment by delayed contribution payment -- Recalculation of benefits for retirees.
16.596 Medical examinations after disability retirement.
61.558 Service credit for other public employment by delayed contribution payment -- Recalculation of benefits for retirees.
78.605 Service credit for other public employment by delayed contribution payment -- Recalculation of benefits for retirees.

The Committee Substitute to **HB 519** is as follows:

HB 519, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

(1) "System" means the State Police Retirement System created by KRS 16.510 to 16.652;

(2) "Board" means the board of trustees of the Kentucky Retirement Systems;

(3) "Employer" or "State Police" means the Department of State Police, or its successor;

(4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided;

(5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;

(6) "Service" means the total of current service and prior service;

(7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed, including interest credited;

(8) "Creditable compensation" means all salary and wages, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's *total* service with the *system in which it is recorded if it is equal to or greater than one thousand dollars ($1,000)*~~[employer]~~. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4);

(9) "Final compensation" at any time means the creditable compensation of a member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during the three (3) year period, multiplied by twelve (12); the three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

(10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month

period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;

(11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(12) "Retirement allowance" means the retirement payments to which a retired member is entitled;

(13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of actuarial tables adopted by the board, except that, in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of State Police;

(15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959;

(16) "Disability retirement date" means the first day of the month following ***the last day of paid employment***[~~total and permanent disability or hazardous disability~~];

(17) "Dependent child" means a child ***in the womb***[~~en ventre sa mere~~] and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22);

(18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.510 to 16.652;

(19) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of the duties specified in KRS 16.060. For employees in hazardous positions under KRS 61.592, an "act in line of duty" shall mean an act occurring which was required in the performance of the principal duties of the position as defined by the job description;

(20) "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service;

(21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;

(22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;

(23) "Hazardous disability" as used in KRS 16.510 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(29) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member;

(30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;

(31) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or

laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

(32) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(33) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543; and

(34) "Month" means a calendar month.

Section 2. KRS 16.510 is amended to read as follows:

There is hereby created and established:

(1) A retirement system for state police to be known as the "State Police Retirement System" by and in which name it shall, pursuant to the provisions of KRS 16.510 to 16.652, transact all of its business, and shall have the powers and privileges of a corporation; and

(2) A [~~state~~]fund, to be known as the "State Police Retirement Fund," which shall consist of all the assets of the system as set forth in KRS 16.555. ***All assets received in the fund shall be deemed trust funds to be held and applied solely as provided in KRS 16.505 to KRS 16.652.***

Section 3. KRS 16.578 is amended to read as follows:

(1) If a member, eligible to retire as provided in KRS 16.576, dies at any time before the first benefit payment has been issued by the ***system***[~~State Treasurer~~] and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly which shall be equal to the benefit that would have been paid had the member retired immediately prior to his date of death and elected to receive payments under subsection (2) of KRS 61.635 or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain, or the beneficiary may elect to receive the beneficiary Social Security adjustment payment under subsection (9) of KRS 61.635 or the beneficiary may elect the actuarial equivalent refund.

(2) If a member in active employment or on authorized leave of absence with five (5) or more years of service dies at any time before his normal retirement date and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equal to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at the date of his death, had the member been eligible for retirement and had he chosen benefits payable under subsection (2) of KRS 61.635 or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain, or the beneficiary may elect to receive the beneficiary Social Security adjustment payment under subsection (9) of KRS 61.635 or the beneficiary may elect the actuarial equivalent refund.

(3) If a member, not in active employment nor on authorized leave of absence with twelve (12) or more years of service, dies at any time before his normal retirement date and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equal to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at the date of his death, had the member been eligible for retirement and had he chosen benefits payable under subsection (2) of KRS 61.635 or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain, or the beneficiary may elect to receive the beneficiary Social Security adjustment payment under subsection (9) of KRS 61.635 or the beneficiary may elect the actuarial equivalent refund.

(4) An alternative calculation of benefits payable to the beneficiary under subsection (1), (2) or (3) of this section shall be determined by computing an annual benefit payable commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive based on his years of service and final compensation at the date of his death reduced by the survivorship fifty percent (50%) factor as provided for in KRS 61.635(4), then reduced by fifty percent (50%) and the actuarial equivalent payable for one hundred twenty (120) months certain shall be determined, or the beneficiary may elect to receive the beneficiary Social Security adjustment payment under subsection (9) of KRS 61.635.

(5) If the member, subject to subsection (1), (2), (3), or (4) of this section had on file a written designation of multiple beneficiaries, or his estate, trust, or trustee, the multiple beneficiaries by consensus or the administrator or executor of the estate or trustee may elect to receive the actuarial equivalent to the benefit allowable under subsection (1), (2), (3), or (4) of this section given the assumptions that the beneficiary's age is the same as the member's, and that the member had chosen benefits payable monthly for sixty (60) months certain, or one hundred and twenty (120) months certain, or an actuarial equivalent refund.

(6) The beneficiary may elect to receive a one (1) time lump sum payment which shall be the actuarial equivalent of the amount payable under KRS 61.635(2) for a period of sixty (60) months. In the case of designation of multiple beneficiaries, an estate, trust, or trustee, the multiple beneficiaries by consensus, trustee, executor, or administrator of the

estate may elect to receive a one (1) time lump sum payment which shall be the actuarial equivalent of the amount payable under KRS 61.635(2), assuming the beneficiary's age to be the same as the member's, for a period of sixty (60) months.

(7) In the case of a single beneficiary who is a person, the highest monthly benefit determined under subsection (1), (2), (3), (4), or (6) of this section for a life annuity, for payments for sixty (60) months certain, for payments for one hundred twenty (120) months certain, for the actuarial equivalent refund or for the beneficiary Social Security payment shall be tendered to the beneficiary. In the case of designation of multiple beneficiaries, an estate, trust, or trustee, the highest monthly benefit determined under subsection (1), (2), (3), (4), (5), or (6) of this section for payments for sixty (60) months certain or one hundred and twenty (120) months certain or the actuarial equivalent refund shall be tendered to the multiple beneficiaries, trustee, administrator, or executor of the estate.

Section 4. KRS 16.582 is amended to read as follows:

(1) (a) Total and permanent disability means a disability which results in the member's incapacity to engage in any occupation for remuneration or profit. Loss by severance of both hands at or above the wrists, or both feet at or above the ankles, or one (1) hand above the wrist and one (1) foot above the ankle, or the complete, irrevocable loss of the sight of both eyes shall be considered as total and permanent.

(b) Hazardous disability means a disability which results in the member's total incapacity to continue as a regular full-time officer or as an employee in a hazardous position, as defined in KRS 61.592, but which does not result in the member's total and permanent incapacity to engage in other occupations for remuneration or profit.

(c) In determining whether the disability meets the requirement of this section, any reasonable accommodation provided by the employer as provided in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 shall be considered.

(d) If the board determines that the total and permanent disability of a member receiving a retirement allowance under this section has ceased, then the board shall determine if the member has a hazardous disability.

(2) Any person may qualify to retire on disability, subject to the following:

(a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The service requirement shall be waived if the disability is a total and permanent disability or a hazardous disability and is a direct result of an act in line of duty;

(b) ***For a person whose membership date is prior to August 1, 2004,*** the person shall not be eligible for an unreduced retirement allowance;

(c) The person's application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment, as defined in KRS 16.505, as a regular full-time officer or in a regular full-time hazardous position under KRS 61.592;

(d) The person shall receive a satisfactory determination pursuant to KRS 61.665; and

(e) A person's disability application based on the same claim of incapacity shall be accepted and reconsidered for disability if accompanied by new objective medical evidence. The application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment as a regular full-time officer or in a regular full-time hazardous position.

(3) Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:

(a) The incapacity results from bodily injury, mental illness, or disease. For purposes of this section, "injury" means any physical harm or damage to the human organism other than disease or mental illness;

(b) The incapacity is deemed to be permanent; and

(c) The incapacity does not result directly or indirectly from:

1. Injury intentionally self-inflicted while sane or insane;

2. Injury or disease resulting from military service; or

3. Bodily injury, mental illness, disease, or condition which pre-existed membership in the system or reemployment, whichever is most recent, unless:

a. The disability results from bodily injury, mental illness, disease, or a condition which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or

b. The person has at least sixteen (16) years' current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems.

For purposes of this subparagraph, "reemployment" shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems with no loss of service credit.

(4) (a) 1. An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a position as regular full-time officer or a hazardous position.

2. The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.

(b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.

(c) The person's physical exertion requirements shall be determined based on the following standards:

1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers, and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.

2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.

3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.

4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.

5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.

(5) The disability retirement allowance shall be determined as provided in KRS 16.576, ***except*** [~~subject to the following:~~

~~(a)~~]if the member's total service credit on his last day of paid employment in a regular full-time position is less than twenty (20) years, service shall be added beginning with his last date of paid employment and continuing to his fifty-fifth birthday. The maximum service credit added shall not exceed the total service the member had on his last day of paid employment, and the maximum service credit for calculating his retirement allowance, including his total service and service added under this section, shall not exceed twenty (20) years;

[~~(b) If the member's total service credit on his last day of paid employment is twenty (20) or more years, then his total service credit shall be used.~~]

(6) If the member receives a satisfactory determination of total and permanent disability or hazardous disability pursuant to KRS 61.665 and the disability is the direct result of an act in line of duty, the member's retirement allowance shall be calculated as follows:

(a) For the disabled member, benefits as provided in subsection (5) of this section except that the monthly retirement allowance payable shall not be less than twenty-five percent (25%) of the member's monthly final rate of pay; and

(b) For each dependent child of the member on his disability retirement date, who is alive at the time any particular payment is due, a monthly payment equal to ten percent (10%) of the disabled member's monthly final rate of pay; however, total maximum dependent children's benefit shall not exceed forty percent (40%) of the member's monthly final rate of pay. The payments shall be payable to each dependent child, or to a legally appointed guardian or as directed by the system.

(7) No benefit provided in this section shall be reduced as a result of any change in the extent of disability of any retired member who is age fifty-five (55) or older.

(8) If a regular full-time officer or hazardous position member has been approved for benefits under a hazardous disability, the board shall, upon request of the member, permit the member to receive the hazardous disability allowance while accruing benefits in a nonhazardous position, subject to proper medical review of the nonhazardous position's job description by the system's medical examiner.

(9) For a member of the State Police Retirement System, in lieu of the allowance provided in subsection (5) or (6) of this section, the member may be retained on the regular payroll and receive the compensation authorized by KRS 16.165, if he

is qualified.

Section 5. KRS 16.642 is amended to read as follows:

(1) The board shall be the trustee of the several funds created by KRS 16.505 to 16.652 and shall have full power to invest and reinvest such funds, subject to the limitations that no investments shall be made except upon the exercise of bona fide discretion, in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state, except that the board may, at its discretion, purchase common stock in corporations that do not have a record of paying dividends to their stockholders. Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds.

(2) All~~[registered]~~ securities acquired under authority of KRS 16.505 to 16.652 shall be registered in the name "Kentucky Retirement Systems" or nominee name as provided by KRS 287.225, and every change in registration, by reason of sale or assignment of such securities shall be accomplished by the signatures of the chair of the board of trustees or a trustee appointed by the chair and the executive director of the systems.

(3) The board, in keeping with its responsibility as trustee and wherever feasible, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

Section 6. KRS 16.645 is amended to read as follows:

The following subjects shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

(1) Cessation of membership, as provided for by KRS 61.535;

(2) Medical examiners and hearing procedures, as provided for by KRS 61.665;

(3) Actuarial bases, as provided for by KRS 61.670;

(4) Duties of the employer, as provided for by KRS 61.675;

(5) Exemption of benefits of the system for taxation, as provided for by KRS 61.690;

(6) Retirement allowance increase, as provided for by KRS 61.691;

(7) Calculation of retirement allowance, as provided for by KRS 61.595(3) and (4);

(8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;

(9) Year of service credit, as provided for by KRS 61.545;

(10) Refund of contributions, death after retirement, as provided by KRS 61.630;

(11) Custodian of fund, payments made, when, as provided for by KRS 61.660;

(12) Credit for service prior to membership date, as provided for by KRS 61.526;

(13) Transfer of dormant accounts, as provided for by KRS 61.626;

(14) Member's account, confidential, as provided for by KRS 61.661;

(15) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(16) Correction of errors in records, as provided for by KRS 61.685;

(17) Maximum disability benefit, as provided for by KRS 61.607;

(18) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;

(19) Employer contributions, as provided for by KRS 61.565;

(20) Reinstatement of lost service credit, purchase of service credit, interest paid, and delayed contribution and installment payments, as provided for by KRS 61.552;

(21) Reciprocal arrangement between systems, as provided by KRS 61.680;

(22) Refund of contributions, conditions, as provided by KRS 61.625;

(23) Hospital and medical insurance plan, as provided by KRS 61.702;

(24) Death benefit, as provided by KRS 61.705;

(25) Disability retirement allowance, reduction, and discontinuance, as provided by KRS 61.615;

(26) Service credit, Armed Forces, as provided by KRS 61.555;

(27) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;

(28) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;

(29) Retirement of persons in hazardous positions, as provided for by KRS 61.592;

(30) Direct deposit of recipient's retirement allowance as provided in KRS 61.623;

(31) Purchase of service credit effective July 1, 2001, as provided in KRS 61.5525;

(32) Payment of small amounts upon death of member, retiree, or recipient without formal administration of the estate as

provided in KRS 61.703;~~[and]~~

(33) Suspension of retirement payments on reemployment, reinstatement, recomputation of allowance, waiver of provisions in certain instances, reemployment in a different position, as provided for by KRS 61.637***; and***

(34) Medical examination and financial review after disability retirement, staff review, as provided in Section 18 of this Act.

Section 7. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, ***interim,*** and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he serves in the position;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he served in the position prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except that for members of the General Assembly, it shall mean an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the year. A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's ***total*** service with the ***system in which it is recorded if it is equal to or greater than one thousand dollars ($1,000)***~~[employer]~~. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on

or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4);

(14) "Final compensation" of a member means:

(a) For a member who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used; or

(b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance; or

(c) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). In the case of members of the General Assembly, the "final rate of pay" shall be the creditable compensation. The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150***. The term shall also apply to***~~[and the]~~ assistants ***who were***~~[if]~~ employed by the General Assembly ***for at least one (1) regular legislative session prior to the effective date of this Act, who elect to participate in the retirement system, and who serve*** for at least six (6) regular legislative sessions***. Assistants hired after the effective date of this Act shall be designated as interim employees***;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and

(e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;

(22) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person;

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;

(33) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

(34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543; and

(35) "Month" means a calendar month.

Section 8. KRS 61.515 is amended to read as follows:

There is hereby created and established:

(1) A retirement system for employees to be known as the "Kentucky Employees Retirement System" by and in which name it shall, pursuant to the provisions of KRS 61.510 to 61.705, transact all its business and shall have the powers and privileges of a corporation; and

(2) A[~~ state~~] fund, called the "Kentucky Employees Retirement Fund," which shall consist of all the assets of the system as set forth in KRS 61.570 to 61.585. ***All assets received in the fund shall be deemed trust funds to be held and applied solely as provided in KRS 61.510 to KRS 61.705.***

Section 9. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating department after the date such department first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3);

(2) (a) All persons who are employees of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following the department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

(b) All persons who are employees of a department who did not elect to participate within thirty (30) days of the date the department first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the department's date of participation;

(3) All persons who are employees of any credit union whose membership was initially limited to employees of state government and their families and which subsequently may have been extended to local government employees and their families;

(4) All persons who were professional staff employees of the Council on Postsecondary Education or the Higher Education Assistance Authority and were contributing to the system on the effective date of Executive Order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system and all administrative and professional staff employees of the Higher Education Assistance Authority who, on or after January 1, 1993, are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;

(5) All persons who were professional staff employees of the Kentucky Authority for Educational Television on and after July 1, 1974;

(6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d);

(7) Membership in the system shall not include those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360; and

(8) Effective January 1, 1998, employees of the Kentucky Community and Technical College System who were previously contributing members and are not required to participate in the Teachers' Retirement System as a member; employees who were previously contributing members transferred from the Cabinet for Workforce Development as provided in KRS 164.5805(1)(a) and who have not exercised the option to participate in the new Kentucky Community and Technical College personnel system as provided in KRS 164.5805(1)(e)[~~; and new employees as of July 1, 1997, who are not eligible under the Teachers' Retirement System or who are not contributing to an optional retirement plan established by the board of regents for the Kentucky Community and Technical College System~~].

(9) An employer who has employees participating in the Kentucky Employees Retirement System and other retirement systems, including the Kentucky Teachers' Retirement System or an optional retirement plan, shall:

(a) Designate each job classification as participating in a particular retirement system;

(b) Enroll and report all current and future employees in the job classification to the designated retirement system unless the employee was a participating member of the Kentucky Employees Retirement System immediately prior to employment. If the employee was a participating member of the Kentucky Employees Retirement System immediately prior to employment, the employee shall continue to participate in the Kentucky Employees Retirement System, unless employed in an instructional position which is required to participate in the Kentucky Teachers' Retirement System.

Section 10. KRS 61.542 is amended to read as follows:

(1) Prior to the time the first retirement allowance payment is issued by the *system*[~~State Treasurer~~]:

(a) Each member may designate *on the form prescribed by the board* one (1) or more persons as a principal beneficiary or beneficiaries and one (1) or more persons as contingent beneficiary or beneficiaries; or each member may designate his estate as principal or contingent beneficiary; or each member may designate a trust or trustee as principal or contingent beneficiary.

(b) If multiple persons are designated, the member shall indicate the percentage of total benefits each person is to receive.

1. If percentages are not indicated, payments will be disbursed equally to the named beneficiaries. *If the percentages indicated do not total one hundred percent (100%), each beneficiary shall receive an increased or decreased percentage which is proportional to the percentage allotted him or her by the member.*

2. If any of the multiple beneficiaries die prior to the member's death, the remaining beneficiaries shall be entitled to the deceased beneficiary's percentage of the total benefits, and each shall receive a percentage of the deceased's share which is equal to the percentage allotted them by the member.

3. If any or all multiple beneficiaries die after the first retirement allowance has been issued by the *system*[~~State Treasurer~~], the deceased beneficiary's estate shall receive a lump-sum payment which is the actuarial equivalent of the remaining monthly payments the deceased beneficiary was entitled to receive.

(c) This designation shall remain in full force and effect until changed by the member, except:

1. A final divorce decree terminates an ex-spouse's status as beneficiary, unless the member has on file in the retirement office a beneficiary designation that redesignates the ex-spouse as beneficiary subsequent to the issuance of the divorce decree.

2. If a beneficiary or beneficiaries are convicted of any crime which prohibits that person or persons from receiving the benefits under KRS 381.280, the beneficiary or beneficiaries shall not be eligible for any of

the benefits and the remaining beneficiary or beneficiaries or, if none, the member's estate, shall become the beneficiary.

3. When a notification of retirement has been filed at the retirement office, the designation of beneficiary on the notification of retirement, which shall be one (1) person, his estate, or a trust or trustee, shall supersede the designation of all previous beneficiaries***, except that if the notification of retirement is withdrawn, invalid, or voided, the prior beneficiary designation on file with the system shall remain in full force and effect until changed by the member***.

4. When a request for refund has been filed at the retirement office, the member's estate shall become the member's beneficiary if the member dies.

(2) If the member dies prior to filing a notification of retirement or a request for refund, any retirement benefits shall be payable to the principal beneficiary, except that:

(a) If the death of the principal beneficiary or beneficiaries precedes the death of the member, or if the principal beneficiary is terminated by a divorce decree, the contingent beneficiary or beneficiaries become the principal beneficiary or beneficiaries.

(b) If the principal beneficiary is the one (1) person who is the member's spouse and they are divorced on the date of the member's death, the contingent beneficiary or beneficiaries become the principal beneficiary or beneficiaries.

(c) If the member is survived by his principal beneficiary or beneficiaries who subsequently die prior to having on file at the retirement office the necessary forms prescribed under authority of KRS 61.590, the contingent beneficiary shall become the principal beneficiary or beneficiaries.

(d) If the deaths of all the principal beneficiaries and all of the contingent beneficiaries precede the death of the member, the estate of the member becomes the beneficiary.

(3) Prior to the member's retirement, a monthly benefit payable for life shall not be offered if the beneficiary is more than one (1) person, the member's estate, or a trust or trustee.

(4) When a notification of retirement has been filed at the retirement office:

(a) The designation of beneficiary on the notification of retirement shall supersede the designation of all previous beneficiaries.

(b) The beneficiary designated by the member on the member's notification of retirement shall be one (1) person, the member's estate, or a trust or trustee.

(c) If the death of the beneficiary named on the notification of retirement precedes the date the first benefit payment has been issued by the ***system***[~~State Treasurer~~], the member may designate another beneficiary on the member's notification of retirement.

(5) After the first retirement allowance payment is issued by the ***system***[~~State Treasurer~~] and subsequent thereto, a member shall not have the right to change his beneficiary, except that:

(a) The estate of the retired member becomes the beneficiary if the date of death of the beneficiary precedes or coincides with the date of death of the retired member.

(b) The estate of the retired member becomes the beneficiary if the retired member had designated a person as beneficiary who was the spouse or who later married the member and they were divorced on the date of the retired member's death. An ex-spouse who was the named beneficiary on the member's notification of retirement shall be reinstated as the member's beneficiary for the payment options provided by KRS 61.635(2), (3), (4), and (8)(b) if they are remarried to each other as of the date of the retired member's death.

(c) The estate of the member shall not receive monthly payments if the member selected one (1) of the payment options provided by KRS 61.635(2), (3), (4), and (8)(b).

Section 11. KRS 61.545 is amended to read as follows:

(1) The board shall determine by appropriate administrative regulations how much service in any year is the equivalent of a year of service credit and how much service in any calendar month is the equivalent of a month of service credit. It shall not allow credit for more than one (1) year of service for all service rendered in any period of twelve (12) consecutive months except as provided in KRS 61.546 and in subsection (2) of this section.

(2) (a) Employees participating in one (1) of the state-administered retirement systems who are or have been employed by a school board participating in the County Employees Retirement System, a state-operated school under KRS Chapter 167, ***a participating community action agency,*** or a Kentucky institution of higher education which participates in the Kentucky Employees Retirement System, and who receive service credit for less than twelve (12) months each year, may purchase the additional months of service credit needed to total one (1) year of service credit except the amount purchased shall not exceed three (3) months. The employee may purchase the service credit by paying the retirement system a delayed contribution payment. Employees who have service credit prior to July 1, 1992, or their employers, the state-operated school under KRS Chapter 167, the Kentucky institution of higher education, or the school board may purchase service credit on behalf of the employee for previous years by

paying the retirement system the delayed contribution payment.

(b) The cost of service under this subsection may be paid by both the employer and employee. The employer shall pay fifty percent (50%) of the cost and the employee shall pay fifty percent (50%) of the cost. The payment by the employer shall not be deposited to the member's account. Service credit shall not be credited to the member's account until both the employer's and employee's payment are received by the retirement system.

(c) If the employee has purchased service credit under this subsection based on months reported by the employer for the fiscal year, and an audit of the employee's account reduces the number of months of service credit for which the employee is eligible to no fewer than nine (9) months, the employee shall retain credit for the months purchased unless the employee is ineligible for any service in the fiscal year. The employee shall be eligible to purchase the additional months under this subsection to total one (1) year.

(3) (a) An employee who is simultaneously eligible for membership in more than one (1) retirement system administered by the Kentucky Retirement Systems may, at his option, choose to participate in only one (1) of those systems. The choice, once made, shall remain in effect so long as the employee is eligible for membership in more than one (1) system.

(b) If the employee participates in more than one (1) of the retirement systems administered by the Kentucky Retirement Systems, the employee's service credit shall be divided between each system determined by dividing the employee's creditable compensation in each system by the employee's total creditable compensation in all systems.

(c) If the employee earns creditable compensation in both a hazardous position, as defined by KRS 61.592, and a nonhazardous position, the employee's service credit shall be divided between the employee's hazardous and nonhazardous positions determined by dividing the employee's creditable compensation in the hazardous and nonhazardous positions by the employee's combined hazardous and nonhazardous creditable compensation.

Section 12. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state-administered retirement systems who has been refunded his accumulated contributions under the provisions of KRS 16.645(22), 61.625, or 78.545(15), thereby losing service credit, may regain the credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system. The payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems***, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, and*** who did not elect membership in the County Employees Retirement System, as provided in KRS 78.540(2), may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(3) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems***, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, and*** who did not elect membership in the Kentucky Employees Retirement System, as provided in KRS 61.525(2), may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(4) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems***, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems,*** may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(5) (a) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems***, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems,*** may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(b) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for the period of his service with an area development district created pursuant to KRS 147A.050 or with a business development corporation created pursuant to KRS 155.001 to 155.230 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system in which he participates a delayed contribution payment, as determined by the board's actuary. The employee may obtain credit for employment with a business development corporation only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. Payment may be by lump sum or the employee may pay by increments.

(6) After August 1, 2000, service credit obtained under the subsections of this section which do not require the employee to have a minimum number of years of service credit to be eligible to make a purchase shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member if the member does not obtain for service performed six (6) months' additional current service credit in one (1) of the state-administered retirement systems. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 16.582 or 61.600.

(7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.

(8) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65) in the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not participate in a defined benefit or defined contribution retirement program at the university may obtain credit in the employee's account in the County Employees Retirement System, the Kentucky Employees Retirement System, or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the County Employees, Kentucky Employees Retirement System, or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum, or the employee may pay by increments.

(9) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for the service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of the service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(11) Employees who served as assistants to officers and employees of the General Assembly who have at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems and who were unable to acquire service under KRS 61.510(20) may purchase credit for the service performed after January 1, 1960. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(12) (a) Effective August 1, 1988, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least

sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for interim, seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The cost will be determined as a delayed contribution payment for the period of time involved, which shall not be picked up by the employer as described in KRS 61.560(4).

(b) Any non certified27 employee of a school board who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment may be by lump sum or the employee may pay by increments. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed credit only for those months he receives creditable compensation for eighty (80) hours of work. The cost will be determined as a delayed contribution payment, which shall not be picked up by the employer as described in KRS 78.610(4).

(13) A retired member, who is contributing to one (1) of the state-administered retirement programs under the provisions of KRS 61.637(1) to (4) and purchases service credit under this section in the system or systems from which he is retired, shall have his retirement allowance recomputed:

(a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(14) Any employee participating in one (1) of the systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for prior or current service for any period of approved educational leave, or for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, by paying to the respective retirement system a delayed contribution payment. The employee may also obtain credit for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, but only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems may obtain credit for prior or current service for any period of ***authorized***~~[approved]~~ maternity leave, unpaid leave authorized under the Federal Family and Medical Leave Act, or for any period of ***authorized***~~[approved]~~ sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by making installment payments in lieu of a lump-sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. Once multiple service purchases have been combined in an installment purchase, the employee may not separate the purchases or pay a portion of one (1) of the purchases. The employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal.

(b) One (1) year of installment payments shall be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total period allowed for installments shall not be less than one (1) year and shall not exceed five (5) years.

(c) The employee shall pay the installments by payroll deduction. Upon notification by the retirement system, the employer shall report the installment payments either monthly or semimonthly continuously over each twelve (12) month period at the same time as, but separate from, regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employee elects to stop the installment payments, dies, retires, or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have sixty (60) days to pay the remaining principal of the purchase by lump sum, except that payment by the member shall be made prior to the effective retirement date. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employee for sixty (60) days, except in the case of employees on military leave or sick leave without pay, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased. Installment payments of employees on military leave or sick leave without pay shall be suspended during the period of leave and shall resume without recalculation upon the employee's return from leave.

(g) If payments have ceased under paragraph (e) or (f) of this subsection and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

(17) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by transferring funds through a direct trustee-to-trustee transfer as permitted under the applicable sections of the Internal Revenue Code and any regulations or rulings issued thereunder, or through a direct rollover as contemplated by and permitted under 26 U.S.C. sec. 401(a)(31) and any regulations or rulings issued thereunder. Service credit may also be purchased by a rollover of funds pursuant to and permitted under the rules specified in 26 U.S.C. sec. 402(c) and 26 U.S.C. sec. 408(d)(3). The Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted under the rules specified in the applicable provisions of the Internal Revenue Code and any regulations and rulings issued thereunder. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.

(18) After August 1, 1998, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is age sixty-five (65) or older and has forty-eight (48) months of service credit or, if younger, who has sixty (60) months of service credit in systems administered by Kentucky Retirement Systems may purchase credit in the system in which the employee has the service credit for up to ten (10) years service in a regular full-time position that was credited to a state or local government-administered public defined benefit plan in another state other than a defined benefit plan for teachers. The employee shall pay a delayed contribution payment. Payment may be by lump sum, or the employee may pay by increments. The employee may transfer funds directly from the other state's plan if eligible to the extent permitted under subsection (17) of this section and to the extent permitted by the other state's laws and shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.

(19) After August 1, 1998, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has sixty (60) or more months of service in the State Police Retirement System or in a hazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System, may purchase credit in the system in which the employee has the sixty (60) months of service credit for up to ten (10) years of service in a regular full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592. The employee shall pay a delayed contribution payment. Payment may be by lump sum or by increments. The employee may transfer funds directly from the other unit of government's plan if eligible to the extent permitted under subsection (17) of this section and to the extent permitted by the other state's laws, and the employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.

(20) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems and who has completed service as a volunteer in the Kentucky Peace Corps, created by KRS 154.01-720, may purchase service credit for the time served in the corps by making delayed contribution payments.

(21) An employee participating in any retirement system administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by Kentucky Retirement Systems, and who was formerly employed in a regional community mental

health and mental retardation services program, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system may obtain credit for the period of his service in the regional community mental health and mental retardation program, by paying to the state retirement system in which he participates a delayed contribution payment. Payment to one (1) of the retirement systems administered by the Kentucky Retirement Systems may be made by lump sum or in increments.

(22) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, who was employed by a vocational technical school in a noncertified part-time position averaging eighty (80) or more hours per month, determined by using the number of months actually worked within a calendar or fiscal year, may purchase service credit in the Kentucky Employees Retirement System. The cost of the service shall be a delayed contribution payment, which shall not be picked up by the employer as described in KRS 61.560(4).

(23) (a) Any person who is entitled to service credit for employment which was not reported in accordance with KRS 16.543, 61.543, or KRS 78.615 may obtain credit for the service by paying the employee contributions due within six (6) months of notification by the system. No interest shall be added to the contributions. The service credit shall not be credited to the member's account until the employer contributions are received. If a retired member makes the payment within six (6) months, the retired member's retirement allowance shall be adjusted to reflect the added service after the employer contributions are received by the retirement system.

(b) Any employee participating in one (1) of the state-administered retirement systems who is entitled to service credit under paragraph (a) of this subsection and who has not repaid the employee contributions due within six (6) months of notification by the system may regain the credit after the six (6) months by paying to the system the employee contributions plus interest at the actuarially assumed rate from the date of initial notification under paragraph (a) of this subsection. Service credit shall not be credited to the member's account until the employer contributions are received by the retirement system. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(24) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems may purchase service credit for employment with a public agency that would have been eligible to participate under KRS 61.520 but which did not participate in the Kentucky Employees Retirement System or a political subdivision that would have been eligible to participate under KRS 78.530 but which did not participate in the County Employees Retirement System if the former public agency or political subdivision has merged with or been taken over by a participating department or county. The cost of the service shall be determined as a delayed contribution payment for the respective retirement system. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or KRS 78.610(4), by the employer.

(25) Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems prior to July 15, 2002, who has accrued at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems and who has total service in all state-administered retirement systems of at least one hundred eighty (180) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit which is not otherwise purchasable under any of the provisions of KRS 16.510 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852. The purchase price for the retirement service credit shall be calculated and paid for as a delayed contribution payment. The payment shall not be picked up, as described in KRS 16.545(4), KRS 61.560(4), KRS 78.610(4), by the employer, and the employee's payment shall be paid into the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by increments. The service purchased under this subsection shall not be used in determining a retirement allowance until the member has accrued at least two hundred forty (240) months of service, excluding service purchased under this subsection. If the member does not accrue at least two hundred forty (240) months of service, excluding service purchased under this subsection, upon retirement, death, or written request following termination, the payment, plus interest as provided in KRS 61.575, shall be refunded.

(26) An employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), in the systems administered by Kentucky Retirement Systems, may obtain credit in the County Employees Retirement System for the period of that employee's service with a community action agency created under KRS 273.405 to 273.453 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system a delayed contribution payment. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or 78.610(4), by the employer.

(27) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the retirement systems administered by the Kentucky Retirement Systems may obtain current service credit for up to forty-eight (48) months for his or her period of service as a Domestic Relations Commissioner by paying to the

retirement system a delayed contribution payment no later than December 31, 2002. Payment may be made by lump sum or under an installment agreement. The payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(28) The board of trustees is authorized to establish a program, subject to a favorable ruling from the Internal Revenue Service, to provide for the purchase of service credit under any of the provisions of KRS 16.510 to 16.552, 61.515 to 61.705, and 78.520 to 78.852, pursuant to the employer pick-up provisions in 26 U.S.C. sec. 414(h)(2).

(29) An employee may obtain credit for regular full-time service with an agency prior to August 1, 1998, for which the employee did not receive credit due to KRS 61.637(1), by paying a delayed contribution. The payment shall not be picked up by the employer, except as provided in subsection (28) of this section, and shall be credited to the employee's second retirement account. Service credit obtained under this subsection shall not be used in determining benefits under KRS 61.702. The employee may purchase credit for service prior to August 1, 1998, if:

(a) The employee retired from one (1) of the retirement systems administered by the Kentucky Retirement Systems and was reemployed prior to August 1, 1998, earning less than the maximum permissible earnings under the Federal Social Security Act;

(b) The employee elected to participate in a second retirement account effective August 1, 1998, in accordance with KRS 61.637(7); and

(c) The employee has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), in a second account in the systems administered by Kentucky Retirement Systems.

(30) An employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) in the systems administered by the Kentucky Retirement Systems, may obtain credit for the service in a regular full-time position otherwise creditable under the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System for service in the United States government, other than service in the Armed Forces, for which service is not otherwise given, by paying to the system a delayed contribution payment. Payment may be made by lump sum or in increments. No payment made pursuant to this section shall be picked up by the employer, as described in KRS 61.560(4).

Section 13. KRS 61.555 is amended to read as follows:

(1) After August 1, 1998, any employee entering the Armed Forces of the United States after he first participates in the system, who joins the Armed Forces within three (3) months of the last day of paid employment, being on leave of absence from service and not withdrawing his accumulated contributions, shall be credited for retirement purposes with service credit and creditable compensation as provided in 38 U.S.C. sec. 4318 for his period of active military duty in the Armed Forces of the United States, not to exceed six (6) years, if his discharge therefrom is honorable and he returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems within two (2) years after completion of the period of active military duty, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge.

(2) After August 1, 1998, any employee who, prior to the date he first participated in the system, terminated his employment with an agency participating in one (1) of the systems administered by the Kentucky Retirement Systems and within three (3) months entered the Armed Forces of the United States and who returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems within two (2) years after completion of the period of active military duty, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be credited for retirement purposes with service credit and creditable compensation as provided in 38 U.S.C. sec. 4318 for his period of active military duty in the Armed Forces, not to exceed six (6) years.

(3) Any National Guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years' service while on military duty during this period, shall have that portion of his active military duty, necessary to the completion of eight (8) years' current service, credited to his account, as current service without having to meet the reemployment criteria.

(4) Any employee eligible for retirement as prescribed in KRS 61.559 or any employee upon completion of five (5) years of service shall receive current service credit for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service under subsections (1) to (3) of this section if he pays thirty-five percent (35%) of the cost of the service based on the formula adopted by the board. The payment by the member shall not be picked up by the employer, as described in KRS 61.560(4), and shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for the purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account, the system shall not accept employee payments until funds are available in the account.

(5) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems eligible to purchase military service credit under subsection (4) of this section shall receive current service credit for active military

duty as provided under subsection (4) of this section without payment of the current employee contribution ratio if the member was taken prisoner by a hostile power at any time during active military service.

(6)[~~(a)~~] Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or if younger who has sixty (60) months of service, at least twelve (12) of which are current service shall receive current service for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is not dishonorable and he has not been credited with the service under subsections (1) to (4) of this section, by paying the retirement system a delayed contribution payment. Payment may be made by lump sum or in increments. The payment shall not be picked up by the employer as described in KRS 16.545(4), 61.560(4), or 78.610(4) and shall be deposited in the member's individual retirement account.

[~~(b) Notwithstanding any other provision to the contrary, any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems age sixty-five (65) or older who has at least one hundred eighty (180) months of service in the systems administered by Kentucky Retirement Systems shall receive current service for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is not dishonorable and he has not been credited with the service under this section, by paying the retirement system fifty percent (50%) of the cost under KRS 61.5525 no later than December 31, 2002. Payment may be made by lump sum or under an installment agreement under KRS 61.552. The payment shall not be picked up by the employer as described in KRS 16.545(4), 61.560(4), or 78.610(4) and shall be deposited in the member's individual retirement account.~~]

(7) Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or if younger who has sixty (60) months of service, at least twelve (12) of which are current service, shall receive one (1) month of current service for each six (6) months of service in the National Guard or the military reserves of the United States, by paying the retirement system a delayed contribution payment. The service shall be treated as service earned prior to participation in the system and shall not be included in the member's final compensation. Payment may be made by lump sum or in increments. The payment shall not be picked up by the employer, as described in KRS 16.545(4), 61.560(4), or 78.610(4) and shall be deposited in the member's individual retirement account.

Section 14. KRS 61.590 is amended to read as follows:

(1) A member or beneficiary eligible to receive retirement benefits under any of the provisions of KRS 61.510 to 61.705, 78.510 to 78.852, and 16.510 to 16.652 shall have on file at the retirement office on the form prescribed by the board, notification of retirement, giving his name, address, Social Security number, last day of employment, and other information the system may require. The notification of retirement shall not be filed more than six (6) months before the member's effective retirement date.

(2) Within ten (10) days of the receipt of the notification of retirement form submitted within two (2) months of the effective date of retirement, the system shall cause to be prepared an estimate of the amounts the member or beneficiary may expect to receive under the various plans available to the member or beneficiary. This information shall be recorded on a form entitled "Estimated Retirement Allowance" and forwarded to the member or beneficiary. If the member submits a notification of retirement form more than two (2) months prior to the effective retirement date, the system shall provide the estimated retirement allowance within forty-five (45) days of the member's effective retirement date.

(3) The member or beneficiary shall file at the retirement office the form entitled "Estimated Retirement Allowance" after he has checked the plan of his choice, signed the document and had his signature witnessed. A member or beneficiary may not select a different plan after the first retirement allowance payment has been issued by the ***system***[~~State Treasurer~~].

(4) A member or beneficiary choosing a monthly payment plan shall have on file at the retirement office his birth certificate or other acceptable evidence of date of birth. If a survivorship plan is chosen, proof of dates of birth of the beneficiary and member shall be on file at the retirement office.

(5) The effective date of normal retirement shall be the first month following the month in which employment was terminated from a regular full-time position. The effective date of disability retirement shall be the first month following the month in which the member's last day of paid employment in a regular full-time position occurred. The effective date of early retirement shall be the first month following the month the notification of retirement form is filed at the retirement office or a future month designated by the member, if employment in a regular full-time position has been terminated and if the member files the "Estimated Retirement Allowance Form" no later than six (6) months following termination.

(6) The effective date of a deferred retirement option as provided under KRS 16.576(5) shall be the month following age sixty-five (65), or the month following written notification from the member that he wishes to begin receiving retirement payments. In the event of the death of a member who has deferred his retirement allowance, the effective date of retirement shall be the month following the member's death.

(7) Notwithstanding the provisions of KRS 16.578 or 61.640, the effective date of a beneficiary's retirement allowance under normal, early, or disability retirement shall be as prescribed in subsection (5) or (6) of this section if the member dies before the first retirement allowance has been issued by the ***system***[~~State Treasurer~~] and his beneficiary becomes eligible for payments under KRS 16.578 or 61.640.

Section 15. KRS 61.595 is amended to read as follows:

(1) Effective July 1, 1990, upon retirement at normal retirement date or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) for the County Employees Retirement System and one and ninety-seven hundredths percent (1.97%) for the Kentucky Employees Retirement System of final compensation multiplied by the number of years of service credit, except that:

(a) Effective February 1, 1999, a member of the Kentucky Employees Retirement System who was participating in one of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, shall receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two percent (2%) of final compensation multiplied by the number of years of service credit. Any Kentucky Employees Retirement System member whose effective date of retirement is between February 1, 1999, and January 31, 2009, and who has at least twenty (20) years of service credit in one of the state-administered retirement systems and who was participating in one of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, shall receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) of final compensation multiplied by the number of years of service credit. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account;

(b) The annual normal retirement allowance for members of the General Assembly, who serve during the 1974 or 1976 General Assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than two hundred forty dollars ($240) multiplied by the number of years of service as a member of the General Assembly;

(c) The annual normal retirement allowance for members of the General Assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 General Assembly for legislative service prior to January 1, 1974;

(d) Former members of the General Assembly who have eight (8) or more years of legislative service prior to the 1976 Regular Session are eligible for an increased retirement allowance of two hundred forty dollars ($240) times the years of legislative service, if the member pays to the Kentucky Employees Retirement System thirty-five percent (35%) of the actuarial cost of the higher benefit, as determined by the system, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five percent (65%) of the computed actuarial cost shall be paid from the State Treasury to the Kentucky Employees Retirement System upon presentation of a properly documented claim to the Finance and Administration Cabinet. If any member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph, and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;

(e) The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky Employees Retirement System, at least one (1) of which is current service, shall not be less than five hundred twelve dollars ($512); and

(f) The annual retirement allowance for a member of the Kentucky Employees Retirement System or County Employees Retirement System shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(2) (a) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.

(b) A member of the Kentucky Employees Retirement System or the County Employees Retirement System who has twenty-seven (27) or more years of service credit, at least fifteen (15) of which are current service, may retire with no reduction in the retirement allowance. A member who has earned vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education, the Council on Postsecondary Education, or the Higher Education Assistance Authority, may count the vested service toward attaining the necessary years of service credit as provided in KRS 61.559(2)(c) and (d) to qualify for a retirement allowance. The credit from a Kentucky institution of higher education, the Council on Postsecondary Education, or the Higher Education Assistance Authority shall not be used toward the minimum fifteen (15) years of current service required by KRS 61.559(2)(c) and (d) or to calculate his retirement allowance pursuant to this section. The provisions of this paragraph shall not be construed to limit the use of Teachers' Retirement System credit pursuant to KRS 61.680(2)(a).

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon

this calculation, the ***system***[~~State Treasurer~~] shall be requested to issue the initial retirement payment.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is two dollars ($2) greater or less than the amount of the initial retirement payment. If the member or beneficiary chose an actuarial equivalent refund payment option, the amount of estimated retirement allowance shall be the official retirement allowance unless the new calculation produces an amount which is one hundred dollars ($100) greater or less than the amount of the initial retirement payment.

Section 16. KRS 61.600 is amended to read as follows:

(1) Any person may qualify to retire on disability, subject to the following conditions:

(a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1);

(b) ***For a person whose membership date is prior to August 1, 2004,*** the person shall not be eligible for an unreduced retirement allowance;

(c) The person's application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment, as defined in KRS 61.510, in a regular full-time position, as defined in KRS 61.510 or 78.510; ***and***

(d) The person shall receive a satisfactory determination pursuant to KRS 61.665***.***[~~;~~]

(2)[~~(e)~~] A person's disability ***reapplication***[~~application~~] based on the same claim of incapacity shall be accepted and reconsidered for disability if accompanied by new objective medical evidence. The ***reapplication***[~~application~~] shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment in a regular full-time position[~~; and~~

~~(f) A person who had previously applied for and was denied disability benefits by the board on or before December 31, 1996, because of the pre-existing disease of poliomyelitis may file a new application for disability benefits no later than December 31, 2002, at the office of the retirement systems, and subsection(2)(d) of this section shall not apply to the new application if the person applying under this paragraph has at least ten (10) years of current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems~~].

(3)[~~(2)~~] Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:

(a) The person, since his last day of paid employment, has been mentally or physically incapacitated to perform the job, or jobs of like duties, from which he received his last paid employment. In determining whether the person may return to a job of like duties, any reasonable accommodation by the employer as provided in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 shall be considered;

(b) The incapacity is a result of bodily injury, mental illness, or disease. For purposes of this section, "injury" means any physical harm or damage to the human organism other than disease or mental illness;

(c) The incapacity is deemed to be permanent; and

(d) The incapacity does not result directly or indirectly from bodily injury, mental illness, disease, or condition which pre-existed membership in the system or reemployment, whichever is most recent. For purposes of this subsection, reemployment shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems with no loss of service credit.

(4)[~~(3)~~] Paragraph (d) of subsection ***(3) of this section***[~~(2)~~] shall not apply if:

(a) The incapacity is a result of bodily injury, mental illness, disease, or condition which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or

(b) The person has at least sixteen (16) years' current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems.

(5)[~~(4)~~] (a) 1. An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a regular full-time position.

2. The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.

(b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.

(c) The person's physical exertion requirements shall be determined based on the following standards:

1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers, and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.
2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.
3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.
4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.
5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.

Section 17. KRS 61.605 is amended to read as follows:

Upon disability retirement, an employee may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his disability except that service credit shall be added to the *person's*[~~employee's~~] total service beginning with his last date of paid employment and continuing to his sixty-fifth birthday; however, the maximum service credit added shall not exceed the total service the *person*[~~employee~~] had upon his last day of paid employment, and the maximum combined service credit for calculating his disability retirement allowance, including total service and added service shall not exceed twenty-five (25) years. If, however, *a person*[~~an employee~~] has accumulated twenty-five (25) or more years of total service, he shall receive added service necessary to bring his combined service credit, including total and added service, to twenty-seven (27) years.

Section 18. KRS 61.610 is amended to read as follows:

(1) Once each year following the retirement of a *person*[~~member~~] on a disability retirement allowance, or less frequently as determined by the board's medical examiner but not less than once every five (5) years, the system may require the person, prior to his normal retirement date, to undergo *an employment*[~~a financial~~] and medical staff review and, if necessary, be required to *file at the retirement office on the review form prescribed by the board*[~~submit~~] current *employment information and current* medical information *for the bodily injury, mental illness, or disease for which he receives a disability retirement allowance. The person shall have one hundred eighty (180) days from the day the system mailed the review form to the person's last address on file in the retirement office to file at the retirement office the review form and the current employment and medical information. The person shall certify to the retirement office that the review form, including current employment and medical information, is ready to be evaluated by the medical examiner in accordance with Section 19 of this Act*.

(2) If, after good faith efforts, the person informs the system that he has been unable to obtain the employment or medical information, the system shall assist the person in obtaining the records and may use the authority granted pursuant to KRS 61.685(1) to obtain the records.

(3) If *the person fails or*[~~he~~] refuses[~~ to submit~~] to *file at the retirement office the review form, including the current employment and medical information*[~~a medical examination~~], his retirement allowance shall be discontinued *or reduced on the first day of the month following the expiration of the one hundred eighty (180) days from the day the system mailed the review form to the person's last address on file in the retirement office. The system shall send notice of the discontinuance or reduction of the disability retirement allowance by United States first class mail to the person's last address on file in the retirement office. If the person's benefits are discontinued or reduced under this section, his rights to further disability retirement allowances shall cease, except as provided by Section 19 of this Act*[~~until his withdrawal of refusal, and if the refusal continues for one (1) year, all his rights to any further disability allowance shall cease~~].

[~~(2) Disability retirees whose effective retirement date is August 1, 1988, or thereafter shall undergo an annual financial and~~

~~medical staff review and, if necessary, be required to submit current medical information.~~]

Section 19. KRS 61.615 is amended to read as follows:

(1) If ***the board's medical examiner determines that*** a recipient of a disability retirement allowance is, prior to his normal retirement date, employed in a position with the same or similar duties***, or in a position with duties requiring greater residual functional capacity and physical exertion,*** as the position from which he was disabled, except where the recipient has returned to work on a trial basis not to exceed nine (9) months, the ***system***[~~board~~] may reduce ***or discontinue*** the retirement allowance. Each recipient of a disability retirement allowance who is engaged in gainful employment shall notify the system of any employment; otherwise, the system shall have the right to recover payments ***of a disability retirement allowance*** made during the employment.

(2) If ***the board's medical examiner determines***[~~it is determined~~] that ***a***[~~any disabled~~] recipient ***of a disability retirement allowance*** is***, prior to his normal retirement date, no longer incapacitated by the bodily injury, mental illness, or disease for which he receives a disability retirement allowance, the board may reduce or discontinue the retirement allowance***[~~able to be employed in a position with the same or similar duties as the position from which he was disabled, and if the board finds that the person refused any employment considered by the board suitable to his capacity, he shall not be entitled to any allowance during the continuance of his refusal, unless in the opinion of the board his refusal was justified~~].

(3) The system shall have full power and exclusive authority to reduce or discontinue a disability retirement allowance and the system shall utilize ***the***[~~procedures consistent with KRS 61.665, including~~] services of ***a medical examiner as provided in Section 27 of this Act***[~~an examiner~~], in determining ***whether to continue, reduce, or discontinue a disability***[~~the amount of reduction in~~] retirement allowance under this section.

(a) The system shall select a medical examiner to evaluate the forms and medical information submitted by the person. If there is objective medical evidence of a mental impairment, the medical examiner may request the board's licensed mental health professional to assist in determining the level of the mental impairment.

(b) The medical examiners shall be paid a reasonable amount by the retirement system for each case evaluated.

(c) The medical examiner shall recommend that disability retirement allowance be continued, reduced, or discontinued.

1. If the medical examiner recommends that the disability retirement allowance be continued, the system shall make retirement payments in accordance with the retirement plan selected by the person.

2. If the medical examiner recommends that the disability retirement allowance be reduced or discontinued, the system shall send notice of the recommendation by United States first class mail to the person's last address on file in the retirement office.

a. The person shall have sixty (60) days from the day that the system mailed the notice to file at the retirement office additional supporting employment or medical information and certify to the retirement office that the forms and additional supporting employment information or medical information are ready to be evaluated by the medical examiner or to appeal the recommendation of the medical examiner to reduce or discontinue the disability retirement allowance by filing at the retirement office a request for a formal hearing.

b. If the person fails or refuses to file at the retirement office the forms, the additional supporting employment information, and current medical information or to appeal the recommendation of the medical examiners to reduce or discontinue the disability retirement allowance, his retirement allowance shall be discontinued on the first day of the month following the expiration of the period of the sixty (60) days from the day the system mailed the notice of the recommendation to the person's last address on file in the retirement office.

(d) The medical examiner shall make a recommendation based upon the evaluation of additional supporting medical information submitted in accordance with paragraph (c)2.a. of this subsection.

1. If the medical examiner recommends that the disability retirement allowance be continued, the system shall make disability retirement payments in accordance with the retirement plan selected by the person.

2. If the medical examiner recommends that the disability retirement allowance be reduced or discontinued based upon the evaluation of additional supporting medical information, the system shall send notice of this recommendation by United States first class mail to the person's last address on file in the retirement office.

a. The person shall have sixty (60) days from the day that the system mailed the notice of the recommendation to appeal the recommendation to reduce or discontinue the disability retirement allowance by filing at the retirement office a request for formal hearing.

b. If the person fails or refuses to appeal the recommendation of the medical examiners to reduce or discontinue the disability retirement allowance, his retirement allowance shall be discontinued on the first day of the month following the expiration of the period of the sixty (60) days from the day the system mailed the notice of the recommendation to the person's last address on file in the

retirement office.

(e) Any person whose disability benefits have been reduced or discontinued, pursuant to paragraph (c)2. or (d)2. of this subsection, may file at the retirement office a request for formal hearing to be conducted in accordance with KRS Chapter 13B. The right to demand a formal hearing shall be limited to a period of sixty (60) days after the person had notice, as described in paragraph (c) or (d) of this subsection. The request for formal hearing shall be filed with the system, at the retirement office in Frankfort. The request for formal hearing shall include a short and plain statement of the reasons the reduction, discontinuance, or denial of disability retirement is being contested.

(f) Failure of the person to request a formal hearing within the period of time specified shall preclude the person from proceeding any further with contesting the reduction or discontinuation of disability retirement allowance, except as provided in paragraph (6)(d) of this section. This paragraph shall not limit the person's right to appeal to a court.

(g) A final order of the board shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the board and the facts and law upon which the decision is based. If the board orders that the person's disability retirement allowance be discontinued or reduced, the order shall take effect on the first day of the month following the day the system mailed the order to the person's last address on file in the retirement office. Judicial review of the final board order shall not operate as a stay and the system shall discontinue or reduce the person's disability retirement allowance as provided in this section.

(h) Notwithstanding any other provisions of this section, the system may require the person to submit to one (1) or more medical or psychological examinations at any time. The system shall be responsible for any costs associated with any examinations of the person requested by the medical examiner or the system for the purpose of providing medical information deemed necessary by the medical examiner or the system. Notice of the time and place of the examination shall be mailed to the person or his legal representative. If the person fails or refuses to submit to one (1) or more medical examinations, his rights to further disability retirement allowance shall cease.

(i) All requests for a hearing pursuant to this section shall be made in writing.

(4) The board may establish an appeals committee whose members shall be appointed by the chair and who shall have the authority to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of the board.

(5) Any person aggrieved by a final order of the board may seek judicial review after all administrative appeals have been exhausted by filing a petition for judicial review in the Franklin Circuit Court in accordance with KRS Chapter 13B.

(6)[~~(4)~~] If a disability retirement allowance is reduced or discontinued, the *person*[~~member~~] may apply for early retirement benefits as provided under KRS 61.559, subject to the following provisions:

(a) The *person*[~~member~~] may not change his beneficiary or payment option;

(b) If the *person*[~~member~~] has returned to employment with an employer participating in the system from which he retired, the service and creditable compensation shall be used in recomputing his benefit, except that the *person's*[~~member's~~] final compensation shall not be less than the final compensation last used in determining his retirement allowance;

(c) The benefit shall be reduced as provided by KRS 61.595(2);

(d) The *person*[~~member~~] shall remain eligible for reinstatement of his disability allowance upon reevaluation by the medical review board until his normal retirement age*. The person shall apply for reinstatement of disability benefits in accordance with the provisions of this section. If the person establishes that the disability benefits should be reinstated, the retirement system shall pay disability benefits effective from the first day of the month following the month in which the person applied for reinstatement of the disability benefits*; and

(e) Upon attaining normal retirement age, the *person*[~~member~~] shall receive the higher of either his disability retirement allowance or his early retirement allowance.

(7)[~~(5)~~] No disability retirement allowance shall be reduced or discontinued by the system after the *person's*[~~member's~~] normal retirement date except in case of reemployment as provided for by KRS 61.637. If a disability retirement allowance has been reduced or discontinued, except if the *person*[~~member~~] is reemployed as provided for by KRS 61.637, the retirement allowance shall be reinstated upon attainment of the *person's*[~~member's~~] normal retirement age to the retirement allowance prior to adjustment. No reinstated payment shall be less than the *person*[~~recipient~~] is receiving upon attainment of the *person's*[~~member's~~] normal retirement age.

Section 20. KRS 61.621 is amended to read as follows:

(1) Notwithstanding any provision of any statutes to the contrary, effective June 1, 2000, any employee participating in one (1) of the state-administered retirement systems who is not in a hazardous duty position, as defined in KRS 61.592, shall be eligible for minimum benefits equal to the benefits payable under this section or KRS 61.702 if the employee dies or becomes *totally and permanently* disabled *to engage in any occupation for remuneration or profit* as a result of a duty-related injury.

(2) (a) For purposes of this section, "duty-related injury" means:

1. a. A single traumatic event that occurs while the employee is performing the duties of his position; or

b. A single act of violence committed against the employee that is found to be related to his job duties, whether or not it occurs at his job site; and

2. The event or act of violence produces a harmful change in the human organism evidenced by objective medical findings.

(b) Duty-related injury does not include the effects of the natural aging process, a communicable disease unless the risk of contracting the disease is increased by nature of the employment, or a psychological, psychiatric, or stress-related change in the human organism unless it is the direct result of a physical injury.

(3) (a) If the employee dies as a result of a duty-related injury and is survived by a spouse, the surviving spouse shall be the beneficiary, and this shall supersede the designation of all previous beneficiaries of the deceased employee's retirement account.

(b) The surviving spouse may elect to receive the benefits payable under KRS 61.640 or other applicable death benefit statutes, or may elect to receive a lump-sum payment of ten thousand dollars ($10,000) and a monthly payment equal to twenty-five percent (25%) of the member's monthly final rate of pay beginning in the month following the member's death and continuing each month until death.

(4) If the employee is determined to be disabled as provided in KRS 61.600, or other applicable disability statutes in any other state-administered retirement system, as the result of a duty-related injury, the employee may elect to receive benefits determined under the provisions of KRS 61.605, or other applicable disability statutes in any other state-administered retirement system, except that the monthly retirement allowance shall not be less than twenty-five percent (25%) of the employee's monthly final rate of pay. For purposes of determining disability, the service requirement in KRS 61.600(1)(a), or other applicable statutes in any other state-administered retirement system, shall be waived.

(5) In the period of time following a member's death or disability during which dependent children survive, a monthly payment shall be made for each dependent child who is alive which shall be equal to ten percent (10%) of the deceased or disabled member's monthly final rate of pay; however, total maximum dependent children's benefits shall not exceed forty percent (40%) of the deceased or disabled member's monthly final rate of pay at the time any particular payment is due. The payment shall commence in the month following the date of death or disability of the member and shall be payable to the beneficiaries, or to a legally appointed guardian, or as directed by the system. Benefits for death as a result of a duty-related injury shall be payable under this subsection notwithstanding an election by a beneficiary to withdraw the deceased member's accumulated contributions as provided in KRS 61.625 or benefits under any other provisions of KRS 61.515 to 61.705 or other applicable death benefit statutes in any other state-administered retirement system.

(6) This section shall be known as "The Fred Capps Memorial Act."

Section 21. KRS 61.623 is amended to read as follows:

(1) A recipient who begins receiving a retirement allowance August 1, 2000, or after, from the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System shall have the retirement allowance paid by electronic fund transfer to a financial institution designated by the recipient.

(2) When an individual becomes eligible to receive a monthly retirement allowance, the retirement system shall provide an authorization for deposit of retirement payment form to the recipient to have the monthly retirement allowance deposited to an account in a financial institution.

(3) The recipient and the financial institution shall provide the information and authorizations required for the electronic transfer of funds~~[from the State Treasurer's office]~~ to the designated financial institution.

(4) At any time while receiving a retirement allowance, the recipient may change the designated institution by completing a new authorization for deposit of retirement payment form and filing the form at the retirement office in Frankfort. The last authorization for deposit of retirement payment on file at the retirement office shall control the electronic transfer of the recipient's retirement allowance.

(5) (a) A recipient may request to be paid by check~~[issued by the State Treasurer]~~ instead of by electronic transfer by completing and filing at the retirement office a request for payment by check form.

(b) The request shall be approved if:

1. The recipient certifies that he does not currently have an account with a financial institution; *or*

2. The recipient's bank certifies that it does not participate in the electronic funds transfer program~~[; or~~

~~3. The recipient shows that the requirement would create an undue hardship]~~.

(c) The retirement office shall, every five (5) years, require the recipient to certify that the original conditions under which he requested payment by check continue. If the original conditions do not exist, the recipient shall complete an authorization for direct deposit of retirement payment form and file it with the retirement office.

Section 22. KRS 61.630 is amended to read as follows:

(1) If a retired member who did not elect an optional retirement plan dies at any time after retirement but before receiving total

retirement allowances provided in KRS 16.510 to 16.652, KRS 61.515 to 61.705, and KRS 78.520 to 78.852 at least equal to his accumulated contributions as of the date of his retirement, the difference between the accumulated contributions and the total allowances shall be payable in a lump sum to the properly designated beneficiary. If a living person designated as the beneficiary predeceases the retired member, the estate shall become the beneficiary. If a spouse designated as the beneficiary is divorced from the retired member as of the member's death, the estate shall become the beneficiary.

(2) If a retired member who elected an optional retirement plan and his beneficiary both die at any time after retirement of the member but before receiving total retirement allowances provided in KRS 16.510 to 16.652, KRS 61.515 to 61.705, and KRS 78.520 to 78.852 at least equal to the retired member's accumulated contributions as of the date of his retirement, the difference between the accumulated contributions and the total allowances shall be payable in a lump sum to the estate of the last deceased, except that the retired member's estate shall receive the payment if the beneficiary was the spouse and they were divorced as of the date of the member's death. If the retired member and beneficiary die simultaneously, the estate of the retired member shall become the beneficiary.

(3) If a beneficiary receiving a lifetime retirement allowance under KRS 16.578 or 61.640 dies before receiving total retirement allowances provided in KRS 16.510 to 16.652, KRS 61.515 to 61.705, and KRS 78.520 to 78.852 at least equal to the member's accumulated contributions as of the date of the member's death, the difference between the accumulated contributions and the total allowances shall be payable in a lump sum to the estate of the beneficiary.

(4) If a beneficiary receiving a retirement allowance for one hundred twenty (120) months certain under KRS ***16.576,*** 16.578***,*** or 61.640, ***or*** a beneficiary receiving a retirement allowance under[~~ the life with ten (10) years certain option selected by the member under~~] KRS 61.635(5), ***(6) or (7),***[~~ or a beneficiary receiving a retirement allowance for the duration of ten (10) years certain as prescribed in KRS 16.576~~] dies before receiving all payments under the plan, the executor or administrator of his estate ***shall***[~~may elect to~~] receive a lump sum payment which shall be the actuarial equivalent to the remaining payments[~~, or the executor or administrator may elect to continue the remaining monthly payments to the estate of the beneficiary~~].

(5) If the system is unable to verify a recipient's whereabouts or whether the recipient is living, the system shall suspend the recipient's retirement allowance. If the recipient is located, the system shall restore to the recipient all suspended retirement allowances.

Section 23. KRS 61.640 is amended to read as follows:

(1) If an employee who is of normal retirement age or greater is in the active employment of a participating agency, or on official leave from the agency, if the leave has been granted in accordance with the policy of the state Personnel Cabinet, with service credit of forty-eight (48) months or more, at least twelve (12) of which are current service, or if an employee of less than normal retirement age is in the active employment of a participating agency or on official leave from the agency, if the leave has been granted in accordance with the policy of the state Personnel Cabinet, with service credit of sixty (60) months, at least twelve (12) of which are current service, dies at any time before the first retirement allowance payment has been issued by the ***system***[~~State Treasurer~~] and has on file at the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at date of his death, had the member been eligible for retirement and had he chosen benefits payable under KRS 61.635(2); or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain; or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain; or the beneficiary may elect the actuarial equivalent refund.

(2) If a member not in the active employment of a participating agency, nor on official leave from the agency, with the service and age prescribed in KRS 61.559(2), dies before the first retirement allowance payment has been issued by the ***system***[~~State Treasurer~~] and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at date of his death, had he chosen benefits payable under KRS 61.635(2); or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain; or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain; or the beneficiary may elect the actuarial equivalent refund.

(3) If a member, not in the active employment of a participating agency nor on official leave from the agency, with twelve (12) or more years of service credit at least one (1) of which is current service, dies at any time before the first retirement allowance payment has been issued by the ***system***[~~State Treasurer~~] and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at date of his death, had the member been eligible for retirement and had he chosen benefits payable under KRS 61.635(2); or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain; or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain; or the beneficiary may elect the actuarial equivalent refund.

(4) An alternative calculation of benefits payable to the beneficiary under subsection (1), (2), or (3) of this section shall be

determined by computing an annual benefit payable commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive based on his years of service and final compensation at the date of his death reduced by the survivorship fifty percent (50%) factor as provided for in KRS 61.635(4) then reduced by fifty percent (50%), and the actuarial equivalent payable for sixty (60) months certain and one hundred twenty (120) months certain and the actuarial equivalent refund shall be determined.

(5) If the member, subject to subsection (1), (2), (3), or (4) of this section had on file in the retirement office a written designation of multiple beneficiaries, his estate, trust, or trustee, the multiple beneficiaries by consensus, the administrator, or executor of the estate, or trustee may elect to receive the actuarial equivalent to the benefit allowable under subsections (1), (2), (3), or (4) of this section given the assumptions that the beneficiary's age is the same as the member's, and that the member had chosen benefits payable monthly for sixty (60) months certain, or one hundred and twenty (120) months certain, or an actuarial equivalent refund.

(6) Actuarial equivalent refund. The beneficiary may elect to receive a one (1) time lump-sum payment which shall be the actuarial equivalent to the amount payable under KRS 61.635(2) for a period of sixty (60) months. In the case of designation of multiple beneficiaries, an estate, trust, or trustee, the multiple beneficiaries by consensus, trustee, executor, or administrator of the estate may elect to receive a one (1) time lump-sum payment which shall be the actuarial equivalent of the amount payable under KRS 61.635(2), assuming the beneficiary's age to be the same as the member's for a period of sixty (60) months.

(7) In the case of a single beneficiary, who is a person, the highest monthly benefit determined under subsection (1), (2), (3), (4), or (6) of this section for a life annuity or for payments for sixty (60) months certain or for payments for one hundred twenty (120) months certain or for the actuarial equivalent refund or for the[~~ beneficiary~~] Social Security ***adjustment option***[~~payment~~] shall be tendered to the beneficiary. In the case of designation of multiple beneficiaries, an estate, trust, or trustee, the highest monthly benefit determined under subsection (1), (2), (3), (4), (5), or (6) of this section for payments for sixty (60) months certain or one hundred and twenty (120) months certain or the actuarial equivalent refund shall be tendered to the multiple beneficiaries, trustee, administrator, or executor of the estate.

(8) Payments of taxable distributions made pursuant to this section shall be subject to state and federal income tax as appropriate.

Section 24. KRS 61.645 is amended to read as follows:

(1) The County Employees Retirement System, Kentucky Employees Retirement System, and State Police Retirement System shall be administered by the board of trustees of the Kentucky Retirement Systems composed of nine (9) members, who shall be selected as follows:

(a) The secretary of the Personnel Cabinet shall serve as trustee for as long as he occupies the position of secretary under KRS 18A.015, except as provided under subsections (5) and (6) of this section;

(b) Two (2) trustees, who shall be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System;

(c) One (1) trustee, who shall be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;

(d) Two (2) trustees, who shall be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System; and

(e) Three (3) trustees, appointed by the Governor of the Commonwealth. Of the three (3) trustees appointed by the Governor, one (1) shall be knowledgeable about the impact of pension requirements on local governments.

(2) The board is hereby granted the powers and privileges of a corporation, including but not limited to the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing, medical, and other professional or technical services as required to carry out the obligations of the board without limitation, notwithstanding the provisions of KRS Chapters 45, 45A, 56, and 57;

(e) To purchase fiduciary liability insurance;

(f) To acquire, hold, sell, dispose of, pledge, lease, or mortgage, the goods or property necessary to exercise the board's powers and perform the board's duties without limitation, notwithstanding the limitations of KRS Chapters 45, 45A, and 56; and

(g) The board shall reimburse any trustee***,***[~~ or~~] officer***, or employee*** for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section. An elected trustee shall not serve more than ***five (5)***[~~three (3)~~] consecutive four (4) year terms. An elected trustee who has served ***five (5)***[~~three (3)~~] consecutive terms may

be elected again after an absence of four (4) years from the board.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board may nominate, not less than six (6) months before a term of office of a trustee is due to expire, three (3) constitutionally eligible individuals;

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the executive director, not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by the retirement system members;

(c) Within four (4) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the executive director shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes;

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;

(e) The ballots shall be addressed to the Kentucky Retirement Systems in care of a predetermined box number at a United States Post Office located within Kentucky. Access to this post office box shall be limited to the board's contracted auditing firm. The individual receiving a plurality of votes shall be declared elected;

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall sign and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;

(g) The board's contracted auditing firm shall report in writing the outcome to the chair of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and if the secretary of the Personnel Cabinet resigns his position as trustee, it shall be filled by appointment made by the Governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) (a) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee shall serve in more than one (1) position as trustee on the board; and if a trustee holds more than one (1) position as trustee on the board, he shall resign a position.

(b) A trustee shall be removed from office upon conviction of a felony or for a finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court of competent jurisdiction.

(7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of eighty dollars ($80) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chair or the executive director. It shall elect a chair and a vice chair. A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) (a) The board of trustees shall appoint or contract for the services of an executive director and fix the compensation and other terms of employment for this position without limitation of the provisions of KRS Chapters 18A and 45A and KRS 64.640. The executive director shall be the chief administrative officer of the board.

(b) The board of trustees shall authorize the executive director to appoint the employees deemed necessary to transact the business of the system. For an appointee deemed to be in a policy-making position, the board shall determine the compensation and other terms of employment for the policy-making position without limitation of the provisions of KRS Chapter 18A. Anything in the Kentucky Revised Statutes to the contrary notwithstanding, the power over and control of determining and maintaining an adequate complement of employees shall be under the exclusive jurisdiction of the board of trustees.

(c) Effective December 1, 2002, all employees of the Kentucky Retirement Systems shall be transferred to a personnel system adopted by the board. Employees of Kentucky Retirement Systems covered by the personnel system adopted by the board shall be:

1. Provided the same health insurance coverage as all other state government employees as provided in KRS 18A.225;

2. Eligible to participate in the deferred compensation system provided for all state government employees as provided in KRS 18A.250 to 18A.265;

3. Provided the same life insurance coverage provided all state employees as provided in KRS 18A.205 to 18A.215;

4. Reimbursed for all reasonable and necessary travel expenses and disbursements incurred or made in the performance of official duties in accordance with KRS Chapter 45;

5. Ensured equal employment opportunity regardless of race, color, gender, religion, national origin, disability, sexual orientation, or age;
6. Given those holidays and rights granted to state employees as provided in KRS 18A.190;
7. Paid a salary not less than the salary paid as of the date of transfer to the personnel system, unless voluntarily demoted or involuntarily demoted for cause;
8. Credited with all accumulated sick leave, compensatory time, and annual leave accumulated in accordance with KRS Chapter 18A, and for an employee leaving service, the system shall attest to the employee's accumulated sick leave, compensatory time, and annual leave which shall be credited with other state and county employers to the extent provided for by statute or policy. The Kentucky Retirement Systems may, at the discretion of the board, accept from other state and county employers all accumulated sick leave, compensatory time, and annual leave for an employee leaving a state or county employer and accepting employment with the Kentucky Retirement Systems. The executive branch shall accept from the Kentucky Retirement Systems all accumulated sick leave, compensatory time, and annual leave for an employee leaving the Kentucky Retirement Systems and accepting employment with the executive branch. The Kentucky Retirement Systems shall accept from the executive branch all accumulated sick leave, compensatory time, and annual leave for an employee leaving the executive branch and accepting employment with the Kentucky Retirement Systems;
9. Classified with status upon transfer to the personnel system on December 1, 2002, if the employee was classified with status as a merit employee under KRS Chapter 18A. Any employee of the Kentucky Retirement Systems transferred on December 1, 2002, during the probationary period before earning classified status as a merit system employee under KRS Chapter 18A shall transfer all accrued probationary time and the time shall be credited to the probationary time required to attain classified status in the personnel system;
10. Ensured a grievance appeal procedure and the employee's right to have a representative present at each step of the grievance procedure; and
11. Ensured of the right of appeal in a manner consistent with the provisions of KRS 18A.095 to the Kentucky Personnel Board and employees classified with status in the personnel system shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.

(d) The board shall adopt by administrative regulation a fair, equitable, and comprehensive personnel policy with a minimum of the following provisions for the personnel system:

1. A code of conduct including provisions describing performance of duties, abuse of position, conflicts of interest, and outside employment;
2. An appointments plan including provisions describing the appointing authority, appointments, equal employment policy, sexual harassment policy, and drug-free workplace policy;
3. A classification plan including provisions describing class specifications, position actions, and employee actions;
4. A compensation plan based on qualifications, experience, and responsibilities and including provisions which describe a salary schedule, salary adjustments, salary advancements, and an employee suggestion program;
5. Separations, disciplinary actions, and appeal policies including provisions describing classified with status, exemptions from classified with status, layoffs, abolishment of position, dismissals and notification of dismissal, dismissals during probationary period, disciplinary actions, right of appeal, grievance and appeal procedures, and an employee grievance and appeal committee;
6. Service and benefits regulations including provisions describing hours of work, fringe benefits, workers' compensation, payroll deductions, holidays, inclement weather days, compensatory time, retirement, resignations, employee evaluations, and political activities; and
7. Leave policies including provisions describing special leave, annual leave, court leave and jury duty, military leave, voting leave, educational leave, sick leave, family medical leave, leave without pay, absence without leave, and blood donation leave.

(e) The board shall require the executive director and the employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.

(f) The board shall establish a system of accounting.

(g) The board shall do all things, take all actions, and promulgate all administrative regulations, not inconsistent with the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852, necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852 conform with federal statute or regulation and meet the qualification requirements under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance. Provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852 which conflict with federal statute or regulation or qualification under 26 U.S.C. sec. 401(a), applicable federal regulations, and other published guidance shall not be available. The board shall have the authority to promulgate administrative regulations to conform with federal statute and regulation and to meet the qualification requirements under 26 U.S.C. sec. 401(a), including an administrative regulation to comply with 26 U.S.C. sec. 401(a)(9). The board shall have the authority to promulgate an administrative regulation to comply with any consent decrees entered into by the board in Civil Action No. 3:99CV500(C) in order to bring the systems into compliance with the Age Discrimination in Employment Act, 29 U.S.C. Section 621, et seq., as amended.

(10) All employees of the board shall serve during its will and pleasure. Notwithstanding any statute to the contrary, employees shall not be considered legislative agents under KRS 6.611.

(11) The Attorney General, or an assistant designated by him, may attend each meeting of the board and may receive the agenda, board minutes, and other information distributed to trustees of the board upon request. The Attorney General may act as legal adviser and attorney for the board, and the board may contract for legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.

(12) The system shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The system shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the office of the executive director of the Kentucky Retirement Systems and in other places as necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.

(14) Any person adversely affected by a decision of the board, except as provided under subsection (16) of this section or KRS 61.665, involving KRS 16.510 to 16.652, 61.515 to 61.705, and 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within sixty (60) days of the board action.

(15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:

1. In good faith;
2. On an informed basis; and
3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.

(b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.

(c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;
2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or
3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.

(d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by paragraph (c) of this subsection unwarranted.

(e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:

1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and
2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.

(f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraphs (e)1. and (e)2. of this subsection, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.

(g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.

(16) When an order by the system substantially impairs the benefits or rights of a member, retired member, or recipient, except action which relates to entitlement to disability benefits, the affected member, retired member, or recipient may request a hearing to be held in accordance with KRS Chapter 13B. The board may establish an appeals committee whose members shall be appointed by the chair and who shall have authority to act upon the recommendations and reports of the hearing officer on behalf of the board. The member, retired member, or recipient aggrieved by a final order of the board following the hearing may appeal the decision to the Franklin Circuit Court, in accordance with KRS Chapter 13B.

(17) The board shall give the Kentucky Education Support Personnel Association twenty-four (24) hours notice of the board meetings, to the extent possible.

Section 25. KRS 61.650 is amended to read as follows:

(1) (a) The board shall be the trustee of the several funds created by KRS 16.510, 61.515, 61.701, and 78.520, notwithstanding the provisions of any other statute to the contrary, and shall have exclusive power to invest and reinvest such funds in accordance with federal law.

(b) The board may establish an investment committee whose members shall be appointed by the board chair. The investment committee shall have authority to implement policy and act on behalf of the board on all investment-related matters with full power to acquire, sell, safeguard, monitor, and manage the assets and securities of the several funds.

(c) A trustee***, officer, employee,*** or other fiduciary shall discharge duties with respect to the retirement system:

1. Solely in the interest of the members and beneficiaries;
2. For the exclusive purpose of providing benefits to members and beneficiaries and paying reasonable expenses of administering the system;
3. With the care, skill, and caution under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose;
4. Impartially, taking into account any differing interests of members and beneficiaries;
5. Incurring any costs that are appropriate and reasonable; and
6. In accordance with a good-faith interpretation of the law governing the retirement system.

(2) All~~[registered]~~ securities acquired under authority of KRS 61.510 to 61.705 shall be registered in the name "Kentucky Retirement Systems" or nominee name as provided by KRS 287.225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished by the signatures of the chair of the board of trustees or a trustee appointed by the chair and the executive director of the systems.

(3) The board, in keeping with its responsibility as trustee and wherever consistent with its fiduciary responsibilities, shall give priority to the investment of funds in obligation calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

(4) The contents of real estate appraisals, engineering or feasibility estimates, and evaluations made by or for the system relative to the acquisition or disposition of property, until such time as all of the property has been acquired or sold, shall be excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction.

Section 26. KRS 61.660 is amended to read as follows:

[~~(1) The State Treasurer shall be the custodian of the funds received under authority of KRS 61.510 to 61.705, 16.510 to 16.652 and 78.510 to 78.852 and shall be responsible for the safekeeping of all cash and securities in his custody. All payments from the fund shall be made by him on warrants issued by the Finance and Administration Cabinet. Payments may be in the form of checks, which shall clearly show on the envelope or other mailing device the name and address of the Kentucky Retirement Systems, or direct deposit bank transfers.~~

~~(2)~~]The board shall appoint a custodian or custodians of the ***cash and*** securities acquired under authority of KRS 61.510 to 61.705, 16.510 to 16.652, and 78.510 to 78.852; and the custodian or custodians shall be responsible for the safekeeping of ***all cash and*** securities in his custody.

Section 27. KRS 61.665 is amended to read as follows:

(1) The board shall employ at least three (3) physicians, licensed in the state and not members of the system, upon terms and conditions it prescribes to serve as medical examiners, whose duty it shall be to pass upon all medical examinations required under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, to investigate all health or medical statements and certificates made by or in behalf of any person in connection with the payment of money to the person under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, and who shall report in writing to the system the conclusions and recommendations upon all matters referred to them. The board may employ one (1) or more licensed

mental health professionals[~~ as consultants to assist~~] in making *recommendations regarding*[~~determinations where there is objective medical evidence of~~] mental impairments.

(2) (a) Each *person*[~~employee~~] requesting disability retirement shall file at the retirement office *an application for disability retirement and supporting medical*[~~the names and addresses of all, but no fewer than two (2), physicians who have the necessary~~] information to report the *person's*[~~employee's~~] physical and mental condition. The *person*[~~employee~~] shall also file at the retirement office a complete description of the job and duties from which he received his last pay as well as evidence that the *person*[~~employee~~] has made a request for reasonable accommodation as provided for in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630. *The person shall certify to the retirement office that the application for disability retirement and supporting medical information are ready to be evaluated by the medical examiners in accordance with paragraph (d) of this subsection. If, after good faith efforts, the person informs the system that he has been unable to obtain the employment or medical information, the system shall assist the person in obtaining the records and may use the authority granted pursuant to KRS 61.685(1) to obtain the records.* If *the person*[~~an employee~~] fails to file, at the retirement office within *one hundred eighty (180) days*[~~six (6) months~~] of the date the *person*[~~employee~~] filed his notification of retirement, any of the *forms, certifications, or* information required by this subsection, the *person's*[~~employee's~~] application for disability *retirement*[~~benefits~~] shall be void. *Any subsequent filing of an application for disability retirement or supporting medical information shall not be evaluated, except as provided in paragraph (f) of this subsection or subsection (2) of Section 16 of this Act.*

(b) The employer shall file at the retirement office a complete description of the job and duties for which the *person*[~~employee~~] was last paid and shall submit a detailed description of reasonable accommodations attempted.

(c)[~~ The board shall prescribe forms upon which medical evidence shall be recorded. The forms shall be sent to the employee's physicians with the request that the documents be completed and filed at the retirement office.~~

~~(d)~~] The cost of[~~ a~~] medical *examinations and the filing of the medical information, reports, or data with the retirement office*[~~examination~~] shall be paid by the *person applying for disability retirement*[~~employee. The physicians shall be paid a reasonable amount by the retirement system for the filing of the medical report with the retirement office, pursuant to an administrative regulation promulgated by the board~~].

(d)[~~(e)~~]The system shall select *three (3)*[~~a~~] medical *examiners*[~~examiner~~] to evaluate the medical evidence submitted by the *person*[~~employee's physician~~]. The *medical examiners*[~~examiner~~] shall recommend that disability retirement be approved, or that disability retirement be denied.[~~ If the medical examiner recommends denial of disability benefits, the system shall submit the member's application to one (1) additional medical examiner. If the second medical examiner recommends approval, the application shall be submitted to a third medical examiner. Both of the additional medical examiners shall recommend approval of disability benefits to overturn the original recommendation.~~] If there is[~~ objective medical~~] evidence of *a* mental *impairment*[~~impairments~~], the medical examiners may request the board's licensed mental health professional to assist in determining the level of the mental impairment.[~~ Recommendations by the examiners shall be submitted to the board for approval.~~]

(e)[~~(f)~~] If *two (2) or more of* the *three (3)* medical examiners recommend that the *person*[~~employee~~] be approved for disability retirement, the *system*[~~executive director~~] shall make retirement payments in accordance with the retirement plan selected by the *person*[~~employee~~].

(f)[~~(g)~~] If *two (2) or more of* the *three (3)* medical examiners recommend that the *person*[~~employee~~] be denied disability retirement, the *system*[~~executive director~~] shall *send notice of this recommendation by United States first class mail to the person's last address on file in the retirement office*[~~notify the employee of this recommendation~~]. The *person*[~~employee~~] shall have *one hundred eighty (180)*[~~sixty (60)~~] days *from the day that the system mailed the notice* to file at the retirement office additional *supporting* medical information *and certify to the retirement office that the application for disability retirement and supporting medical information are ready to be evaluated by the medical examiners* or to appeal his denial *of*[~~for~~] disability *retirement*[~~benefits~~] by filing at the retirement office a request for a formal hearing. *Any subsequent filing of an application for disability retirement or supporting medical information shall not be evaluated, except as provided in subsection (2) of Section 16 of this Act*[~~An extension of time may be granted by the system for a medical examiner to evaluate additional medical information. The extensions of time shall not be for more than sixty (60) days for any one (1) extension, and no more than three (3) extensions shall be granted. The cumulative extension of time shall not exceed one hundred twenty (120) days. The extension of time shall end upon request of a formal hearing~~].

(g) If two (2) or more of the three (3) medical examiners recommend that the person be approved for disability retirement based upon the evaluation of additional supporting medical information in accordance with paragraph (f) of this subsection, the system shall make retirement payments in accordance with the retirement plan selected by the person.

(h) *If two (2) or more of the three (3) medical examiners recommend that the person be denied disability retirement based upon the evaluation of additional supporting medical information in accordance with paragraph (f) of this subsection, the system shall send notice of this recommendation by United States first class mail to the person's last address on file in the retirement office. The person shall have one hundred eighty (180) days from*

the day that the system mailed the notice to appeal his denial of disability retirement by filing at the retirement office a request for a formal hearing.

(i) The medical examiners shall be paid a reasonable amount by the retirement system for each case evaluated.

(j)[~~(i)~~] Notwithstanding the foregoing provisions of this section, the system may pay for one (1) or more medical examinations ***of the person*** requested by the ***medical*** examiners for the purpose of providing medical information deemed necessary by the ***medical*** examiners. The system may ***require the person to submit to one (1) or more medical examinations***[~~direct that a specialist be sought~~].

(3) [~~Any person aggrieved by a final order or determination of the system may file at the retirement office a request that a hearing be conducted by the system in accordance with KRS Chapter 13B. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice, as described in subsection (6) of this section, of the system's determination. If any extensions of time are granted by the system, they shall be as provided for in subsection (2)(g) of this section.~~]

(a) Any person whose disability benefits have been reduced, discontinued, or denied pursuant to subsection ***(2)(f) or (2)(h)***[~~(2)(g)~~] of this section[~~ or KRS 61.615(1)~~] may file at the retirement office a request for ***a formal***[~~an administrative~~] hearing ***to be conducted in accordance with KRS Chapter 13B***[~~with the system~~]. The right to demand a ***formal*** hearing shall be limited to a period of ***one hundred eighty (180)***[~~sixty (60)~~] days after the ***person***[~~requester has~~] had notice ***of the system's determination***, as described in subsection ***(2)(f) or (2)(h)***[~~(6)~~] of this section[~~, of the system's determination~~]. The request ***for a formal hearing*** shall be filed with the executive director, at the ***retirement***[~~system's central~~] office in Frankfort. The request for a ***formal*** hearing shall include a short and plain statement of the reasons the[~~ reduction, discontinuance, or~~] denial of disability ***retirement***[~~benefits~~] is being contested.[~~ The request shall not operate as a stay of any reduction, discontinuance, or denial of benefits.~~]

(b) Failure of the ***person***[~~member~~] to request a formal hearing within the period of time specified shall preclude the ***person***[~~member~~] from proceeding any further with ***the application for disability retirement***[~~his cause of action~~], except as provided in KRS 61.600***(2)***[~~(1)(e)~~]. This paragraph shall not limit the ***person's***[~~member's~~] right to appeal to a court.

(c) The system may require the ***person***[~~member~~] requesting the formal hearing to submit to one (1) or more medical or psychological examinations. Notice of the time and place of the examination shall be mailed to the ***person***[~~member~~] or his legal representative. The system shall be responsible for the cost of the examination.

(d) A final order of the board shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the board and the facts and law upon which the decision is based.

(e)[~~ A final order of the board which alters or amends the decision recommended pursuant to subsection (2)(g) of this section shall relate back and take effect on the date of the recommendation.~~

~~(f)~~] All requests for a hearing pursuant to this section shall be made in writing.

(4) The board may establish an appeals committee whose members shall be appointed by the chair and who shall have the authority to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of the board.

(5) Any person aggrieved by a final order of the board may seek judicial review after all administrative appeals have been exhausted by filing a petition for judicial review in the Franklin Circuit Court in accordance with KRS Chapter 13B.

(6) The system, pursuant to regulations, may refer an employee determined by it to be disabled to the Kentucky Office of Vocational Rehabilitation for evaluation and, if appropriate, retraining.

(a) The cost of the evaluation and retraining shall be paid by the system in accordance with the regulations established by the board.

(b) The member shall perform all acts that are necessary to enroll in and satisfy the requirements of Vocational Rehabilitation as prescribed by the board. This shall include the exchange of confidential information between Kentucky Retirement Systems and the Kentucky Office of Vocational Rehabilitation as necessary to conduct the rehabilitation process. Failure of the member to cooperate with the system or Vocational Rehabilitation may result in his disability allowance being discontinued, reduced, or denied until the member complies with the agency requests. If the refusal continues for one (1) year, all his rights to any further disability allowance shall cease.

Section 28. KRS 61.675 is amended to read as follows:

(1) The employer shall prepare the records and, from time to time, shall furnish the information the system may require in the discharge of its duties. Upon employment of an employee, the employer shall inform him of his duties and obligations in connection with the system as a condition of employment.

(2) The system may at any time conduct an audit of the employer in order to determine if the employer is complying with the provisions of KRS 16.505 to 16.652, 61.610 to 61.705, or 78.510 to 78.852. The system shall have access to and may examine all books, accounts, reports, correspondence files, and records of any employer. Every employer, employee, or agency reporting official of a department or county, as defined in KRS 78.510(3), having records in his possession or under his control, shall permit access to and examination of the records upon the request of the system.

(3) Any agency participating in the Kentucky Employees Retirement System which is not an integral part of the executive branch of state government shall forward the employer and employee contributions required under KRS 61.560 and 61.565 to the retirement office ***on or before***[~~within twenty (20) days of~~] the tenth day of the month following the period being reported. If the agency fails to forward all contributions ***on or before the tenth day of the month following the period being reported***[~~within the twenty (20) days~~], interest ***on the delinquent contributions*** at the actuarial rate adopted by the board compounded annually[~~ on the delinquent contributions~~], but not less than one ***thousand***[~~hundred~~] dollars ***($1,000)***[~~($100)~~], shall be added to the amount due the system.

Section 29. KRS 61.685 is amended to read as follows:

(1) Notwithstanding the provisions of KRS Chapter 413, upon discovery of any error ***or omission*** in system records, the system shall correct all records including, but not limited to, membership in the system, service credit, member and employer contributions, and benefits paid or payable. ***The system may conduct audits to detect possible fraud, misrepresentation, and change in circumstance, which may result in errors or omissions in the system's records. The system, by its executive director or by representatives appointed in writing by the executive director, may take testimony or depositions, and may examine records, documents, or files of any person whose records, documents, or files may furnish knowledge concerning any system records, when the executive director or representative deems this reasonably necessary for purposes incident to the performance of the system's functions. The system may enforce these powers by application to the Franklin Circuit Court, which court may compel compliance with the orders of the executive director or representatives appointed by the executive director.***

(2) Neither the board nor any of its individual members shall be liable to any person for any claim arising from the failure of any participating employer, or any employer who should have been participating in any retirement system operated by the board, to make retirement contributions on behalf of the person.

Section 30. KRS 61.701 is amended to read as follows:

(1) There is hereby created and established a[~~ state~~] fund to be known as "Kentucky Retirement Systems Insurance Fund." ***All assets received in the fund shall be deemed trust funds to be held and applied solely as provided in this section.***

(2) The fund is created pursuant to 26 U.S.C. sec. 106 for the purpose of providing a fund separate from the retirement funds and is to be used to provide fringe benefits as provided in KRS 61.702 to retired recipients and employees of employers participating in the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System, and to certain of their dependents or beneficiaries.

(3) The fund shall be administered by the board of trustees of the Kentucky Retirement Systems and the board shall manage the assets of the fund in the same manner in which it administers the retirement funds.

Section 31. KRS 61.702 is amended to read as follows:

(1) (a) The board of trustees of Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System, except as provided in subsection (8) of this section. The board shall also arrange to provide health care coverage by health maintenance organizations, as defined in KRS 18A.225, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section. Any person who chooses coverage by a health maintenance organization shall pay, by payroll deduction from the retirement allowance or by another method, the difference in premium between the cost of health maintenance organization coverage and the benefits to which he would be entitled under this section.

(b) The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems to be included in the state employees' group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status, except as provided in subsection (8) of this section. Notwithstanding the provisions of any other statute, recipients shall be included in the same class as current state employees in determining medical insurance policies and premiums.

(c) For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status, the board shall provide a medical insurance reimbursement plan as described in subsection (7) of this section.

(2) Each employer participating in the State Police Retirement System as provided for in KRS 16.510 to 16.652, each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute to the Kentucky Retirement Systems insurance fund the amount necessary to provide hospital and medical insurance as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate to each respective retirement system determined under KRS 61.565.

(3) (a) The premium required to provide hospital and medical benefits under this section shall be paid:

1. Wholly or partly from funds contributed by the recipient of a retirement allowance, by payroll deduction, or

otherwise;

2. Wholly or partly from funds contributed by the Kentucky Retirement Systems insurance fund;

3. Wholly or partly from funds contributed by another state-administered retirement system under a reciprocal arrangement, except that any portion of the premium paid from the Kentucky Retirement Systems insurance fund under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the member's service were in one (1) of the systems administered by the Kentucky Retirement Systems;

4. Partly from subparagraphs 1., 2., or 3., except that any premium for hospital and medical insurance over the amount contributed by the Kentucky Retirement Systems insurance fund or another state-administered retirement system under a reciprocal agreement shall be paid by the recipient. If the board provides for cross-referencing of insurance premiums, the employer's contribution for the working member or spouse shall be applied toward the premium, and the Kentucky Retirement Systems insurance fund shall pay the balance, not to exceed the monthly contribution.

5. In full from the Kentucky Retirement Systems insurance fund for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) and had two hundred and forty (240) months or more of service upon retirement. Should such recipient have less than two hundred forty (240) months of service but have at least one hundred eighty (180) months of service, seventy-five percent (75%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. Notwithstanding the foregoing provisions of this subsection, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who becomes disabled in the line of duty as defined in KRS 16.505(19) or KRS 61.621, shall have his premium paid in full as if he had two hundred forty (240) months or more of service. Further, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who is killed in the line of duty as defined in KRS 16.505(19) or KRS 61.621, shall have the premium for the beneficiary, if the beneficiary is the member's spouse, and for each dependent child paid so long as they individually remain eligible for a monthly retirement benefit. "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3) retirement systems, except service added to determine disability benefits shall not be counted as "months of service." ***For current and former employees of the Council on Postsecondary Education who were employed prior to January 1, 1993, and who earn at least fifteen (15) years of service credit in the Kentucky Employees Retirement System, "months of service" shall also include vested service in another retirement system other than the Kentucky Teachers' Retirement System sponsored by the Council on Postsecondary Education.***

(b) For a member electing insurance coverage through the Kentucky Retirement Systems, "months of service" shall include, in addition to service as described in paragraph (a) of this subsection, service credit in one of the other state-administered retirement plans.

1. Effective August 1, 1998, the Kentucky Retirement Systems shall compute the member's combined service, including service credit in another state-administered retirement plan, and calculate the portion of the member's premium to be paid by the insurance fund, according to the criteria established in paragraph (a) of this subsection. Each state-administered retirement plan annually shall pay to the insurance fund the percentage of the system's cost of the retiree's monthly contribution for single coverage for hospital and medical insurance which shall be equal to the percentage of the member's number of months of service in the other state-administered retirement plan divided by his total combined service. The amounts paid by the other state-administered retirement plans and the insurance fund shall not be more than one hundred percent (100%) of the monthly contribution adopted by the respective boards of trustees.

2. A member may not elect coverage for hospital and medical benefits under this subsection through more than one (1) of the state-administered retirement plans.

3. A state-administered retirement plan shall not pay any portion of a member's monthly contribution for medical insurance unless the member is a recipient or annuitant of the plan.

(4) (a) Group rates under the hospital and medical insurance plan shall be made available to the spouse, ***each dependent child***[~~dependents~~], and ***each*** disabled ***child***[~~children~~], regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the premium for the ***hospital and medical insurance for the*** spouse, ***each***

dependent ***child***, ***and each*** disabled child, or beneficiary[~~ hospital and medical insurance~~] is paid by payroll deduction from the retirement allowance or by another method. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(b) The other provisions of this section notwithstanding, the insurance fund shall pay a percentage of the monthly contribution for the spouse and ***for each dependent child***[~~dependents~~] of a recipient who was a member of the General Assembly and is receiving a retirement allowance based on General Assembly service, of the Kentucky Employees Retirement System and determined to be in a hazardous position, of the County Employees Retirement System, and determined to be in a hazardous position or of the State Police Retirement System[~~, or the beneficiary of the member, if the member designated only one (1) person as beneficiary~~]. The percentage of the monthly contribution paid for the spouse and ***each dependent child***[~~dependents~~] of a recipient who was in a hazardous position shall be based solely on the member's service with the State Police Retirement System or service in a hazardous position using the formula in subsection (3)(a) of this section, except that for any recipient of a retirement allowance from the County Employees Retirement System who was contributing to the system on January 1, 1998, for service in a hazardous position, the percentage of the monthly contribution shall be based on the total of hazardous service and any nonhazardous service as a police or firefighter with the same agency, if that agency was participating in the County Employees Retirement System but did not offer hazardous duty coverage for its police and firefighters at the time of initial participation.

(c) The insurance fund shall continue the same level of coverage for a recipient who was a member of the County Employees Retirement System after the age of sixty-five (65) as before the age of sixty-five (65), if the recipient is not eligible for Medicare coverage. If the insurance fund provides coverage for the spouse or ***each dependent child***[~~dependents or beneficiary~~] of a former member of the County Employees Retirement System, the insurance fund shall continue the same level of coverage for the spouse or ***each*** dependent ***child***[~~or beneficiary~~] after the age of sixty-five (65) as before the age of sixty-five (65), if the spouse or dependent ***child***[~~or beneficiary~~] is not eligible for Medicare coverage.

(5) After July 1, 1998, notwithstanding any other provision to the contrary, a member who holds a judicial office but did not elect to participate in the Judicial Retirement Plan and is participating instead in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System, as provided in KRS 61.680, and who has at least twenty (20) years of total service, one-half (1/2) of which is in a judicial office, shall receive the same hospital and medical insurance benefits, including paid benefits for spouse and dependents, as provided to persons retiring under the provisions of KRS 21.427. The Administrative Office of the Courts shall pay the cost of the medical insurance benefits provided by this subsection.

(6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

(7) The board shall promulgate an administrative regulation to establish a medical insurance reimbursement plan to provide reimbursement for hospital and medical insurance premiums of recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky and having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance at the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly premium determined under subsection (3) of this section. The plan shall not be made available if all recipients are eligible for the same coverage as recipients living in Kentucky.

(8) For employees ***having a membership date***[~~hired~~] on or after July 1, 2003, participation in the insurance benefits provided under this section shall not be allowed until the employee has earned at least one hundred twenty (120) months of service in the state-administered retirement systems. An employee who earns at least one hundred twenty (120) months of service in the state-administered retirement systems shall be eligible for benefits determined using the formula in subsection (3) of this section for a recipient with one hundred twenty (120) or more months of service. The one hundred twenty (120) months of service requirement shall be waived for a member who is disabled or killed in the line of duty as defined in KRS 16.505(19) or KRS 61.621, and the member or his beneficiary shall be entitled to the benefits payable under subparagraph (3)(a)5. of this section. The benefits of this subsection as provided on July 1, 2003, and thereafter shall not be considered as benefits protected by the inviolable contract provisions of KRS 61.692, 16.652, and 78.852. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in their judgment the welfare of the Commonwealth so demands.

Section 32. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the County Employees Retirement System;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county

officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation", including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the ***system in which it is recorded if it is equal to or greater than one thousand dollars ($1,000)***[~~employer~~]. If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other items determined by the board shall be excluded. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4);

(14) "Final compensation" means:

(a) For a member who is employed in a nonhazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used; or

(b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance; or

(c) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852;

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary, also referred to as probationary, positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or

(d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;

(22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "School term or year" means the twelve (12) months from July 1 through the following June 30;

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula in KRS 61.5525, except the determination of the actuarial cost for classified employees of a school board shall be based on their final compensation, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615; and

(32) "Month" means a calendar month.

Section 33. KRS 78.520 is amended to read as follows:

There is hereby created and established:

(1) A retirement system for employees to be known as the "County Employees Retirement System" by and in which name it shall, pursuant to the provisions of KRS 78.510 to 78.852, transact all of its business and shall have the powers and privileges of a corporation; and

(2) A[~~ state~~] fund, called the "County Employees Retirement Fund," which shall consist of all the assets of the system as set forth in KRS 78.510 to 78.852. ***All assets received in the fund shall be deemed trust funds to be held and applied solely as provided in KRS 78.510 to KRS 78.852.***

Section 34. KRS 78.540 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating county after the date the county first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3), and except that mayors and members of city legislative bodies may decline prior to their participation in the system and city managers or other appointed local government executives who participate in a retirement system, other than Social Security,[~~ which operates in more than one (1) state,~~] may decline prior to their participation in the system;

(2) (a) All persons who are employees of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following the county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.520 to 78.852;

    (b) All persons who are employees of a county who did not elect to participate within thirty (30) days of the date the county first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the county's date of participation;

(3) All persons who declined participation in subsection (1) of this section and who later elect to participate. Persons who elect to participate under this subsection may purchase service credit for any prior years by paying a delayed contribution payment. The service shall not be included in the member's total service for purposes of determining benefits under KRS. 61.702; and

(4) All persons electing coverage in the system under KRS 78.530(3)(d).

(5) The provisions of subsections (1) and (2) of this section notwithstanding, cities which participate in the CERS and close existing local pension systems to new, or all members pursuant to the provisions of KRS 78.530, 95.520, 95.621, or 95.852 shall not be required to provide membership in the County Employees Retirement System to employees in any employee category not covered by a city pension system at the date of participation.

(6) Membership in the system shall not include those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360.

Section 35. KRS 78.625 is amended to read as follows:

(1) The agency reporting official of the county shall, by the tenth day of each month, forward to the system an amount equal to the aggregate amount of the employees' contributions deducted during the previous month in accordance with KRS 78.610 and the aggregate amount of the employer's contributions due for the previous month in accordance with KRS 61.565.

(2) The agency reporting official or some other person designated by the county shall forward a record of all contributions to the system on the forms the board prescribes.

(3) (a) If the agency reporting official fails to forward all contributions ***on or before***[~~by~~] the ***tenth***[~~twentieth~~] day of the month following the period being reported, interest ***on the delinquent contributions*** at the actuarial rate adopted by the board compounded annually[~~ on the delinquent contributions~~], but not less than one ***thousand***[~~hundred~~] dollars ***($1,000)***[~~($100)~~], shall be added to the amount due the system.

    (b) Delinquent contributions, with interest at the rate adopted by the board compounded annually, or penalties may be recovered by action in the Franklin Circuit Court against the county liable or may, at the request of the board, be deducted from any other moneys payable to the county by any department or agency of the state.

(4) If an agency is delinquent in the payment of contributions due in accordance with any of the provisions of KRS 78.510 to 78.852, refunds and retirement allowance payments to members of this agency may be suspended until the delinquent contributions***, with interest at the rate adopted by the board compounded annually, or penalties*** have been ***paid to the system***[~~made~~].

Section 36. KRS 78.790 is amended to read as follows:

(1) The board shall be the trustee of the several funds created by KRS 78.510 to 78.852, and shall have full power to invest

and reinvest such funds subject to the limitations that no investments shall be made except upon the exercise of bona fide discretion, in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state except that the board may, at its discretion, purchase common stocks in corporations that do not have a record of paying dividends to their stockholders. Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds.

(2) All~~[registered]~~ securities acquired under the authority of KRS 78.510 to 78.852 shall be registered in the name Kentucky Retirement Systems or nominee name as provided by KRS 287.225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished by the signatures of the chair of the board of trustees or a trustee appointed by the chair and executive director of the systems.

(3) The board, in keeping with its responsibility as the trustee and wherever feasible, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

Section 37. The following KRS sections are repealed:

16.537 Service credit for other public employment by delayed contribution payment -- Recalculation of benefits for retirees.
16.596 Medical examinations after disability retirement.
61.558 Service credit for other public employment by delayed contribution payment -- Recalculation of benefits for retirees.
78.605 Service credit for other public employment by delayed contribution payment -- Recalculation of benefits for retirees.

HB 528, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.691 is amended to read as follows:

(1) Effective August 1, 1996, and on July 1 of each year thereafter, a recipient of a retirement allowance under KRS 16.510 to 16.652 and KRS 61.515 to 61.705 and KRS 78.520 to 78.852 shall have his retirement allowance increased by the percentage increase in the annual average of the consumer price index for all urban consumers for the most recent calendar year as published by the federal Bureau of Labor Statistics, not to exceed five percent (5%). In determining the annual employer contribution rate, only the cost of increases granted as of the most recent valuation date shall be recognized. The benefits of this subsection as provided on August 1, 1996 and thereafter shall not be considered as benefits protected by the inviolable contract provisions of KRS 61.692, 16.652, and 78.852. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in their judgment the welfare of the Commonwealth so demands.

(2) *On August 1, 2004, in addition to the annual increase described in subsection (1) of this section, each recipient of a retirement allowance who retired in 1970 or earlier shall receive an increase of five percent (5%), and each recipient of a retirement allowance who retired in the years 1971 through 1980 shall receive an increase of three percent (3%).*

(3) A reemployed retired member whose payments are suspended as provided under KRS 61.637 shall be eligible for an increase in his suspended retirement allowance as provided under this section, computed as if he were receiving the retirement allowance at the time the increase under this section is effective.

HB 535, AN ACT relating to the Capitol restoration trust fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "trust fund" means the Capitol restoration trust fund.

(2) There is hereby created within the State Treasury a separate trust fund to be known as the Capitol restoration trust fund that shall be administered by the Finance and Administration Cabinet, with advice from the Historic Properties Advisory Commission.

(a) The Finance and Administration Cabinet shall likewise seek advice on the appropriate disbursement of proceeds from the trust fund from the Speaker of the House of Representatives, the President of the Senate, and the Chief Justice of the Supreme Court of Kentucky.

(b) Proceeds from the trust fund shall be used for the sole purpose of the restoring and renovating the Kentucky State Capitol.

(c) Proceeds in the trust fund shall not lapse to the general fund, and all interest, dividends, and other income derived from the investment of the proceeds of the trust fund shall be credited to the trust fund.

(3) The Commonwealth of Kentucky may accept private and corporate contributions to the trust fund, as well as appropriations from both the state and federal government.

(4) Funds from the trust fund may be used for any and all restoration and renovation expenses of the Kentucky State Capitol, including but not limited to the acquisition of period furniture, window treatments, historic reproduction

lighting and furniture, historical reproduction floor coverings, historic paint stenciling, conservation of artwork, scagliola, and any other reasonable expenses associated with the Capitol restoration and renovation.

(5) The Finance and Administration Cabinet shall publish an annual financial report of the activities of the trust fund and shall provide a copy of that report to the Governor, the Legislative Research Commission, the Speaker of the House of Representatives, the President of the Senate, and the Chief Justice.

The Committee Substitute to **HB 535** is as follows:

HB 535, AN ACT relating to the Capitol restoration trust fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "trust fund" means the Capitol restoration trust fund.

(2) There is hereby created within the State Treasury a separate trust fund to be known as the Capitol restoration trust fund that shall be administered by the Finance and Administration Cabinet, with advice from the Historic Properties Advisory Commission.

(a) The Finance and Administration Cabinet shall likewise seek advice on the appropriate disbursement of proceeds from the trust fund from the Speaker of the House of Representatives, the President of the Senate, the Chief Justice of the Supreme Court of Kentucky, and the Attorney General.

(b) Proceeds from the trust fund shall be used for the sole purpose of the restoring and renovating the Kentucky State Capitol.

(c) Proceeds in the trust fund shall not lapse to the general fund, and all interest, dividends, and other income derived from the investment of the proceeds of the trust fund shall be credited to the trust fund.

(3) The Commonwealth of Kentucky may accept private and corporate contributions to the trust fund, as well as appropriations from both the state and federal government.

(4) Funds from the trust fund may be used for any and all restoration and renovation expenses of the Kentucky State Capitol, including but not limited to the acquisition of period furniture, window treatments, historic reproduction lighting and furniture, historical reproduction floor coverings, historic paint stenciling, conservation of artwork, scagliola, and any other reasonable expenses associated with the Capitol restoration and renovation.

(5) The Finance and Administration Cabinet shall publish an annual financial report of the activities of the trust fund and shall provide a copy of that report to the Governor, the Legislative Research Commission, the Speaker of the House of Representatives, the President of the Senate, the Chief Justice, and the Attorney General.

HB 549, AN ACT relating to state employee political activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.140 is amended to read as follows:

(1) No person shall be appointed or promoted to, or demoted or dismissed from, any position in the classified service, or in any way favored or discriminated against with respect to employment in the classified services because of his political or religious opinions or affiliations or ethnic origin or sex or disability. No person over the age of forty (40) shall be discriminated against because of age.

(2) No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person.

(3) No employee in the classified service or member of the board or its executive director or secretary shall, directly or indirectly, pay or promise to pay any assessment for political purposes, or solicit or take any part in soliciting for any political party, or solicit or take any part in soliciting any political assessment, subscription, contribution, or service. No person shall solicit any political assessment, subscription, contribution, or service of any employee in the classified service.

(4) No employee in the classified service or member of the board or its executive director shall be a member of any national, state, or local committee of a political party, or an officer or member of a committee of a partisan political club, or a candidate for nomination or election to any paid public office, or shall take part in the management or affairs of any political party or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote. *Any certified instructor who teaches in a vocational or technical school governed by the provisions of KRS Chapter 151B shall be afforded the same political rights and privileges as any certified instructor in a locally controlled area vocational or technical school.* Officers or employees of the classified service may be candidates for and occupy a town or school district office if the office is one for which no compensation, other than a per diem payment, is provided and the election is on a nonpartisan basis.

Representative Barrows moved to suspend the rules to grant floor privileges, and to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 182, by Representatives Barrows, S. Lee, Damron, Palumbo, Belcher, Stein, Crenshaw, Farmer, and Westrom: A RESOLUTION honoring the Paul Laurence Dunbar High School Cheerleaders, winners of the 2004 National High School Cheerleading Championship.

Representative Barrows moved the adoption of the following **HR 182**:

HR 182, A RESOLUTION honoring the Paul Laurence Dunbar High School Cheerleaders, winners of the 2004 National High School Cheerleading Championship.

WHEREAS, the Paul Laurence Dunbar varsity cheerleaders have lent support to the Bulldog athletic teams and fostered school spirit since the school's inception; and

WHEREAS, the Paul Laurence Dunbar varsity cheerleaders have also excelled in their own right, winning numerous cheerleading competitions; and

WHEREAS, the Paul Laurence Dunbar varsity cheerleaders added to their outstanding record of competition excellence earlier this year when they were crowned national champions in the large varsity division of the Universal Cheerleading Association's National High School Cheerleading Championship; and

WHEREAS, national cheerleading championships are not a new occurrence at Paul Laurence Dunbar, as the Bulldog cheerleaders were also named national champions in 1995; and

WHEREAS, the Paul Laurence Dunbar varsity cheerleaders were led by coaches Donna Martin, Nancy Buzard, Saleem Habash, and Robin Norris; and

WHEREAS, members of the squad include Ashley Adams, Megan Baird, Hannah Bowlds, Heather Buford, Jenna Deal, Ayrica Everhart, Maggie Farmer, Hailey Garrison, Melissa Hill, Brittany Jones, Lauren Morgan, Chelsea Norsworthy, Lauren O'Nan, Kaitlin Roberts, Kelsey Simpson, Meredith Simpson, Teri Thomas, Nicole Tourigny, Mia Williams, Ashley Wirfel, Emily Worsham, Tyler Pope, and Melissa Swartzentruber; and

WHEREAS, the accomplishments of this outstanding group of young ladies is a testament to their hard work and dedication, and should give all Kentuckians great pride and hope for the future;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this body, both individually and collectively, congratulate the Paul Laurence Dunbar High School varsity cheerleaders, their coaches, and Principal Anthony Orr upon winning the 2004 National High School Cheerleading Championship, and we wish them great success in their future endeavors.

Section 2. The Clerk of the House of Representatives shall transmit a copy of this resolution to Principal Anthony Orr, Paul Laurence Dunbar High School, 1600 Man o' War Boulevard, Lexington, Kentucky 40504.

There being no objection **HR 182** was adopted.

Orders of the Day

HJR 135, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved the adoption of the Committee Substitute to **HJR 135**. Agreed.

Representative Riner moved that **HJR 135**, by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 93, Nays 0**. (See February 24, 2004, roll call on **HJR 135** - Appendix.)

HJR 135, by way of Committee Substitute, was adopted.

Representative Riner moved that the vote by which **HJR 135**, by way of Committee Substitute, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 460 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hoffman moved that **HB 460** be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See February 24, 2004, roll call on **HB 460** - Appendix.)

HB 460 was passed and the title agreed to.

Representative Hoffman moved that the vote by which **HB 460** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 172, with Committee Substitutes and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved the adoption of the Committee Substitute No. 2 to **HB 172**.

Representative Collins moved to withdraw the motion to adopt the Committee Substitute No. 2 to **HB 172**, that **HB 172** retain its position in the Orders of the Day, and that **HB 172** be recommitted to the Committee on Transportation. Agreed.

HR 140 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stacy moved that **HR 140** be adopted.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 24, 2004, roll call on **HR 140** - Appendix.)

HR 140 was adopted.

Representative Stacy moved that the vote by which **HR 140** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 130 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Westrom moved that **HB 130** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 24, 2004, roll call on **HB 130** - Appendix.)

HB 130 was passed and the title agreed to.

Representative Westrom moved that the vote by which **HB 130** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins moved to suspend the rules to waive the posting requirement on **HB 303** and **577**. Agreed.

Representative Adkins moved that the rules be suspended to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 183, by Representative Adkins: A RESOLUTION adjourning the House of Representatives in loving memory and honor of James Howard "Sheepie" Queen.

Motions, Petitions, and Communications (Continued)

Representative Adkins moved the adoption of the following **HR 183**:

HR 183, A RESOLUTION adjourning the House of Representatives in loving memory and honor of James Howard "Sheepie" Queen.

With deepest respect and admiration, we pay homage and tribute to James Howard "Sheepie" Queen, and we pause in silent reverence for his soul.

WHEREAS, James Howard Queen was born on August 2, 1921, a native of Louisa, Lawrence County, Kentucky, and he traversed these earthly bounds on February 22, 2004; and

WHEREAS, James Howard Queen was the loving son of the late Herbert H. and Elizabeth Queen; he was the devoted husband of Alice Ewers Queen; he was the loving father of a son, James H. "Jimmy" Queen of Louisa, and a daughter, Becky Queen Bertran of Cleveland, Ohio; he was the proud grandfather of three grandchildren, and the proud great-grandfather of a great-grandchild; and he also leaves behind a loving sister, Eleanor Bennington of Lancaster, Ohio; and

WHEREAS, James Howard Queen served his country with honor and distinction in the United States Air Force during World War II; and he was a member of the Veterans of Foreign Wars, and American Legion Post 89, where he served as a past commander; and

WHEREAS, James Howard Queen was an esteemed member of the Lawrence County community, where he organized and served as the first president of the Louisa High School Bulldogs Booster Club; he was a dedicated Democrat and served as a former chairman of the Lawrence County Democratic Executive Committee; he was a past president of the Louisa Rotary Club; he was a former Mayor of Louisa; he was a former Deputy Judge/Executive of Lawrence County, and he was a past president of the FIVCO Area Development District Board; and

WHEREAS, James Howard Queen was a member of Louisa United Methodist Church, where his funeral service was held on February 24, 2004; and

WHEREAS, the passing of James Howard "Sheepie" Queen has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of James Howard "Sheepie" Queen, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of James Howard "Sheepie" Queen.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Alice Ewers Queen, 305 East Sycamore Street, Louisa, Kentucky 41230.

There being no objection, **HR 183** was adopted.

Representative Nesler moved the adoption of the following **HR 178**:

HR 178, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Kenneth Ray Mathis.

With deepest respect and admiration, we pay homage and tribute to Kenneth Ray Mathis, and we pause in silent reverence for his soul.

WHEREAS, Kenneth Ray Mathis was born on September 20, 1939, a native of Graves County, Kentucky, and he traversed these earthly bounds on February 18, 2004; and

WHEREAS, Kenneth Ray Mathis was the loving son of the late Charles Wesley and Mois Page Mathis; he was the devoted husband of 41 years to Mary Carolyn Summerville Mathis; he was the loving father of four sons, Ray Keith Mathis of Boaz, Roger Kyle Mathis of Benton, Rodney Kent Mathis of Mayfield, and Robin Kevin Mathis of Nashville, Tennessee; he was the proud grandfather of six grandchildren, Tori Elizabeth Mathis, Jackson Gage Mathis, Ryan Keith Mathis, Marley Catherine Mathis, Raychel Kourtney Mathis, and Jake Kyle Mathis; and he also leaves behind a loving sister, Genice Byron Gibson of Bardwell; and

WHEREAS, Kenneth Ray Mathis was an esteemed member of the Graves County community; he was a retired employee of 34 years with Continental General Tire, where he was instrumental in the establishment of Local 665 United Rubber Workers Union at the Mayfield Plant; he held various leadership positions with the local union including secretary, vice president, and chairman of the COPE committee; he served on the negotiating committee responsible for many of the union advances in benefits, safety and wage increases, and he was editor of the local union's newspaper, *Worker's Voice*; and he was a member of the Kentucky State AFL-CIO executive board, and was treasurer for the District No. 8 Council of the United Rubber Workers; and

WHEREAS, Kenneth Ray Mathis was an active and involved citizen; he was associated with the Western Kentucky Area Council and the local Mayfield-Graves County Summer Youth Baseball League; and he managed various youth sports teams, including baseball, basketball, and football; and

WHEREAS, the passing of Kenneth Ray Mathis has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Kenneth Ray Mathis, and extends to his family and friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Kenneth Ray Mathis.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Mary Carolyn Summerville Mathis, 1405 Bellemeade Drive, Mayfield, Kentucky 42066.

There being no objection, **HR 178** was adopted.

Representative Pasley moved to withdraw **HB 232**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Crenshaw moved that he be recorded as voting "yea" on **HB 460** and **HJR 135**. Agreed.

Representative Webb moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Webb moved that she be recorded as voting "yea" on **HB 460, 172,** and **HJR 135**. Agreed.

Representative Westrom moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Westrom moved that she be recorded as voting "yea" on **HB 81, 71, 466,** and **HCR 134**. Agreed.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 582, by Representative Gooch: AN ACT relating to life insurance.

HB 583, by Representative Jenkins: An ACT relating to advertisements for bids.

HB 584, by Representative Denham: AN ACT relating to nuisance abatement.

HB 585, by Representative Riggs: AN ACT relating to hospital reporting.

HB 586, by Representative R. Adams: AN ACT relating to county surcharges on local event tickets.

HB 587, by Representative Burch: AN ACT relating to offenses against public health and safety.

HB 588, by Representatives Bather, Meeks, Graham, Simpson, Jenkins, Edmonds, Bruce, Burch, Higdon, Riner, Barrows, Adkins, L. Clark, Haydon, Weaver, and Riggs: AN ACT providing for the creation of the Governor's Advisory Council on Minority Affairs.

HB 589, by Representative Sims: AN ACT relating to bids on highway projects.

HB 590, by Representative Upchurch: AN ACT relating to the long-term care ombudsman program.

HB 591, by Representative Upchurch: AN ACT relating to operation or use of a motor vehicle.

HB 592, by Representative Crimm: AN ACT relating to health insurance riders to exclude coverage for a specified condition.

HCR 184, by Representatives P. Clark and Walton: A CONCURRENT RESOLUTION relating to the use of eminent domain by public and private entities.

HR 185, by Representative Geveden: A RESOLUTION urging the Governor of the Commonwealth to fully fund the state's contribution to the Kentucky Employees Retirement Systems and the State Police Retirement System.

HCR 186, by Representative Draud: A CONCURRENT RESOLUTION directing the Legislative Research Commission to have the Interim Joint Committee on Local Government study and make recommendations to improve the ability of local governments to pool resources for the provision of health and dental insurance.

HCR 187, by Representative Denham: A CONCURRENT RESOLUTION urging the Kentucky Agricultural Development Board to lower the proportion of burley tobacco-county applicants' contribution requirement when applying for state funds.

HR 188, by Representative Burch: A RESOLUTION expressing support for the statewide implementation of the 2-1-1 dialing code for health and human service information and referral.

HR 189, by Representative Burch: A RESOLUTION urging the United States Congress to pass the "Calling For 2-1-1 Act," directing funds to the states for the national implementation of a 2-1-1 dialing code system for health and human service information and referral.

HCR 190, by Representative R. Adams: A CONCURRENT RESOLUTION reauthorizing the Task Force on Funding for Wildlife Conservation.

HR 191, by Representative Sims: A RESOLUTION amending House Rule 44.

Pursuant to House Rule 48, Representative Upchurch filed a Discharge Petition on **HB 95**, signed by Representatives Ford, Farmer, Rader, Crall, Feeley, T. Turner, Stewart, Cornett, DeWeese, B. Smith, Harper, Comer, S. Lee, Fischer, Marcotte, Embry, Brinkman, Baugh, Montell, Hoover, Nunn, Draud, Crimm, Couch, Harmon, and Dw. Butler.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 573, 546**

Economic Development: **HJR 113**

Natural Resources and Environment: **HB 423, SJR 3**

Transportation: **HB 447, 356, 514, SB 160**

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills:

HB 130, Representative Crenshaw

HB 159, Representative Palumbo

HB 460, Representatives McKee and Hall

HB 485, Representative Meeks

HB 510, Representative Meeks

HB 519, Representative Dw. Butler

HB 582, Representatives J. Adams, Pullin, Bruce, T. Thompson, Crall, L. Clark, J. Lee, Wayne, Stacy, Riner, Ballard, Marcotte, Belcher, Buckingham, and Napier

HB 588, Representatives De. Butler, Marzian, Wayne, and Burch

The following member filed a request to have his name withdrawn as a co-sponsor of a Bill:

HB 500, Representative Dw. Butler

Announcements

The following meetings were announced:

Committee on Education - Wednesday, February 25, 2004, 8:27 a.m.

Budget Review Subcommittee on Justice and Judiciary - Wednesday, February 25, 2004, upon adjournment

Committee on Banking and Insurance - Wednesday, February 25, 2004, 10:00 a.m., Room 149

Committee on Tourism Development and Energy - Wednesday, February 25, 2004, 8:30 a.m., Room 125

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 2:00 p.m., Wednesday, February 25, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 2:00 p.m., Wednesday, February 25, 2004, was adopted by voice vote.

WEDNESDAY, FEBRUARY 25, 2004

THIRTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Nathan Wilson, Disciples of Christ Church, Wilmore, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of February 24, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HCR 187**

Appropriations and Revenue: **HR 185**

Banking and Insurance: **HB 582, 592**

Health and Welfare: **HB 585, 587, 590**

Judiciary: **HB 581, 591**

Local Government: **HB 583, 584, 586, HCR 186**

Natural Resources and Environment: **HCR 190**

State Government: **HB 588, HR 191**

Tourism Development and Energy: **HR 188, 189**

Transportation: **HB 589, HCR 184**

Report of Committees

The Committee on Education reported **HB 10**, with Committee Amendment attached thereto, **HB 540**, with Committee Substitute attached thereto, and **SB 28**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 10, AN ACT relating to children with disabilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 159.030 is amended to read as follows:

(1) The board of education of the district in which the child resides shall exempt from the requirement of attendance upon a regular public day school every child of compulsory school age:

(a) Who is a graduate from an accredited or an approved four (4) year high school; or

(b) Who is enrolled and in regular attendance in a private, parochial, or church regular day school. It shall be the duty of each private, parochial, or church regular day school to notify the local board of education of those students in attendance at the school. If a school declines, for any reason, to notify the local board of education of those students in attendance, it shall so notify each student's parent or legal guardian in writing, and it shall then be the duty of the parent or legal guardian to give proper notice to the local board of education; or

(c) Who is less than seven (7) years old and is enrolled and in regular attendance in a private kindergarten-nursery school; or

(d) Whose physical or mental condition prevents or renders inadvisable attendance at school or application to study; or

(e) Who is enrolled and in regular attendance in private, parochial, or church school programs for exceptional children; or

(f) Who is enrolled and in regular attendance in a state-supported program for exceptional children;

(g) For purposes of this section, "church school" shall mean a school operated as a ministry of a local church, group of churches, denomination, or association of churches on a nonprofit basis.

(2) Before granting an exemption under subsection (1)(d) of this section, the board of education of the district in which the child resides shall require satisfactory evidence, in the form of***:***

(a) A signed statement of a licensed physician, advanced registered nurse practitioner, psychologist, psychiatrist, chiropractor, or public health officer, that the condition of the child prevents or renders inadvisable attendance at school or application to study. On the basis of such evidence, the board may exempt the child from compulsory attendance. Any child who is excused from school attendance more than six (6) months shall have two (2) signed statements from a combination of the following professional persons: a licensed physician, advanced registered nurse practitioner, psychologist, psychiatrist, chiropractor, and health officer***; or***

(b) An individual education plan specifying that placement of the child with a disability at home or in a hospital is the least restrictive environment for providing services.

Exemptions of all children under the provisions of subsection (1)(d) of this section shall be reviewed annually with the evidence required being updated.

(3) For any child who is excluded under the provisions of subsection (1)(d) of this section, home, hospital, institutional, or other regularly scheduled and suitable instruction meeting standards, rules, and regulations of the Kentucky Board of Education shall be provided.

The Committee Amendment No. 1 to **HB 10** is as follows:

HB 10, On page 2, line 12, after "officer", insert:

"***, except that this requirement shall not apply to a child whose treating physician, advanced registered nurse practitioner, chiropractor, or public health officer certifies that the student has a chronic physical condition that prevents or renders inadvisable attendance at school or application to study and is unlikely to substantially improve within one (1) year***"; and

On page 2, line 17, after "updated", insert:

"***, except that for an exceptional child whose treating physician, advanced registered nurse practitioner, chiropractor, or public health officer certifies that the student has a chronic physical condition unlikely to substantially improve within three (3) years, the child's admissions and release committee shall annually consider the child's condition and the existing documentation to determine whether updated evidence is required. Updated evidence shall be provided for a child upon determination of need by the admissions and release committee, or at least every three (3) years***".

HB 540, AN ACT relating to the safety and well-being of students.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.441 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) ***"Bullying" means any deliberate and repeated force or threat of force to willfully injure, intimidate, interfere with, or threaten a student that has the effect of:***

(a) Physically harming a student;

(b) Damaging a student's property;

(c) Materially or substantially disrupting the orderly operation of the school; or

(d) Creating a hostile environment which substantially interferes with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being.

(2) "Intervention services" means any preventive, developmental, corrective, supportive services or treatment provided to a student who is at risk of school failure, is at risk of participation in violent behavior or juvenile crime, or has been expelled from the school district. Services may include, but are not limited to, screening to identify students at risk for emotional disabilities and antisocial behavior; direct instruction in academic, social, problem solving, and conflict resolution skills; alternative educational programs; psychological services; identification and assessment of abilities; counseling services; medical services; day treatment; family services; work and community service programs.

(3)[~~(2)~~] "School resource officer" means a sworn law enforcement officer who has specialized training to work with youth at a school site. The school resource officer shall be employed through a contract between a local law enforcement agency and a school district.

(4) "Volunteers" has the same meaning as in KRS 161.148.

Section 2. KRS 158.148 is amended to read as follows:

(1) In cooperation with the Kentucky Education Association, the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Parent-Teachers Association, the Kentucky Chamber of Commerce, the Farm Bureau, members of the Interim Joint Committee on Education, and other interested groups, and in collaboration with the Center for School Safety, the Department of Education shall develop ***and provide to local education agencies***:

(a) Statewide student discipline guidelines to ensure safe schools;~~[and]~~

(b) ***A sample policy to address deliberate and repeated bullying that shall include prevention, intervention, and follow-up services for the bully and the victim; and***

(c) Recommendations designed to improve the learning environment and school climate, parental and community involvement in the schools, and student achievement.

(2) The department shall obtain statewide data on major discipline problems and reasons why students drop out of school. In addition, the department, in collaboration with the Center for School Safety, shall identify successful strategies currently being used in programs in Kentucky and in other states and shall incorporate those strategies into the statewide guidelines and the recommendations under subsection (1) of this section.

(3) Copies of the discipline guidelines shall be distributed to all school districts. The statewide guidelines shall contain broad principles to guide local districts in developing their own discipline code and school councils in the selection of discipline and classroom management techniques under KRS 158.154; and in the development of the district-wide safety plan.

(4) Each local board of education shall be responsible for formulating a code of acceptable behavior and discipline to apply to the students in each school operated by the board.

(a) The superintendent, or designee, shall be responsible for overall implementation and supervision, and each school principal shall be responsible for administration and implementation within each school. Each school council shall select and implement the appropriate discipline and classroom management techniques necessary to carry out the code. The board shall establish a process for a two-way communication system for teachers and other employees to notify a principal, supervisor, or other administrator of an existing emergency.

(b) The code shall contain the type of behavior expected from each student, the consequences of failure to obey the standards, and the importance of the standards to the maintenance of a safe learning environment where orderly learning is possible and encouraged.

(c) ***The code shall prohibit the deliberate and repeated bullying of a student, defined in a manner no less inclusive than the definition in Section 1 of this Act, and shall contain:***

1. Procedures for reporting any incident of repeated and deliberate bullying, including a provision that permits a person to report an incident anonymously;

2. Procedures for the prompt investigation of a complaint; and

3. Provisions for the discipline of a student who retaliates against a student who reports misconduct.

(d) The principal of each school shall apply the code of behavior and discipline uniformly and fairly to each student at the school without partiality or discrimination.

(e)~~[(d)]~~ A copy of the code of behavior and discipline adopted by the board of education shall be posted ***in a prominent location*** at each school. Guidance counselors shall be provided copies for discussion with students. The code shall be referenced in all school handbooks. All school employees and parents shall be provided copies of the code.

(f) A local school district shall:

1. Incorporate information regarding the code of acceptable behavior and discipline into the district's employee training manual; and

2. Implement an annual process for discussing the code with students and informing the students of the consequences of violating the code.

Section 3. KRS 158.150 is amended to read as follows:

(1) All pupils admitted to the common schools shall comply with the lawful regulations for the government of the schools:

(a) Willful disobedience or defiance of the authority of the teachers or administrators, use of profanity or vulgarity, assault or battery or abuse of other students, ***repeated and deliberate bullying of other students,*** the threat of force or violence, the use or possession of alcohol or drugs, stealing or destruction or defacing of school property or personal property of students, the carrying or use of weapons or dangerous instruments, or other incorrigible bad conduct on school property, as well as off school property at school-sponsored activities, constitutes cause for suspension or expulsion from school; and

(b) Assault or battery or abuse of school personnel; stealing or willfully or wantonly defacing, destroying, or damaging the personal property of school personnel on school property, off school property, or at school-sponsored activities constitutes cause for suspension or expulsion from school.

(2) Each local board of education shall adopt a policy requiring the expulsion from school for a period of not less than one (1) year for a student who is determined by the board to have brought a weapon to a school under its jurisdiction. The board shall also adopt a policy requiring disciplinary actions, up to and including expulsion from school, for a student who is

determined by the board to have possessed prescription drugs or controlled substances for the purpose of sale or distribution at a school under the board's jurisdiction, or to have physically assaulted or battered or abused educational personnel or other students at a school or school function under the board's jurisdiction. The board may modify the expulsion requirement for students on a case-by-case basis. A board that has expelled a student from the student's regular school setting shall provide or assure that educational services are provided to the student in an appropriate alternative program or setting, unless the board has made a determination, on the record, supported by clear and convincing evidence, that the expelled student poses a threat to the safety of other students or school staff and cannot be placed into a state-funded agency program. Other intervention services as indicated for each student may be provided by the board or by agreement with the appropriate state or community agency. A state agency that provides the service shall be responsible for the cost. In determining whether a student has brought a weapon to school, a local board of education shall use the definition of "unlawful possession of a weapon on school property" stated in KRS 527.070.

(3) School administrators, teachers, or other school personnel may immediately remove or cause to be removed threatening or violent students from a classroom setting or from the district transportation system pending any further disciplinary action that may occur. Each board of education shall adopt a policy to assure the implementation of this section and to assure the safety of the students and staff.

(4) A pupil shall not be suspended from the common schools until after at least the following due process procedures have been provided:

(a) The pupil has been given oral or written notice of the charge or charges against him which constitute cause for suspension;

(b) The pupil has been given an explanation of the evidence of the charge or charges if the pupil denies them; and

(c) The pupil has been given an opportunity to present his own version of the facts relating to the charge or charges.

These due process procedures shall precede any suspension from the common schools unless immediate suspension is essential to protect persons or property or to avoid disruption of the ongoing academic process. In such cases, the due process procedures outlined above shall follow the suspension as soon as practicable, but no later than three (3) school days after the suspension.

(5) The superintendent, principal, assistant principal, or head teacher of any school may suspend a pupil but shall report the action in writing immediately to the superintendent and to the parent, guardian, or other person having legal custody or control of the pupil. The board of education of any school district may expel any pupil for misconduct as defined in subsection (1) of this section, but the action shall not be taken until the parent, guardian, or other person having legal custody or control of the pupil has had an opportunity to have a hearing before the board. The decision of the board shall be final.

(6) (a) Suspension of exceptional children, as defined in KRS 157.200, shall be considered a change of educational placement if:

1. The child is removed for more than ten (10) consecutive days during a school year; or

2. The child is subjected to a series of removals that constitute a pattern because the removals accumulate to more than ten (10) school days during a school year and because of other factors, such as the length of each removal, the total amount of time the child is removed, and the proximity of removals to one another.

(b) The admissions and release committee shall meet to review the placement and make a recommendation for continued placement or a change in placement and determine whether regular suspension or expulsion procedures apply. Additional evaluations shall be completed, if necessary.

(c) If the admissions and release committee determines that an exceptional child's behavior is related to his disability, the child shall not be suspended any further or expelled unless the current placement could result in injury to the child, other children, or the educational personnel, in which case an appropriate alternative placement shall be provided that will provide for the child's educational needs and will provide a safe learning and teaching environment for all. If the admissions and release committee determines that the behavior is not related to the disability, the local educational agency may pursue its regular suspension or expulsion procedure for the child, if the behavior so warrants. However, educational services shall not be terminated during a period of expulsion and during a suspension after a student is suspended for more than a total of ten (10) days during a school year. A district may seek temporary injunctive relief through the courts if the parent and the other members of the admissions and release committee cannot agree upon a placement and the current placement will likely result in injury to the student or others.

(7) Suspension of primary school students shall be considered only in exceptional cases where there are safety issues for the child or others.

Section 4. KRS 158.444 is amended to read as follows:

(1) The Kentucky Board of Education shall promulgate appropriate administrative regulations relating to school safety, student discipline, and related matters.

(2) The Kentucky Department of Education shall:

(a) Collaborate with the Center for School Safety in carrying out the center's mission; and

(b) Establish and maintain a statewide data collection system by which school districts shall report by sex, race, and grade level:

1. All incidences of violence and assault against school employees and students; incidences of possession of guns or other deadly weapons on school property or at school functions; and incidences of the possession or use of alcohol, prescription drugs, or controlled substances on school property or at school functions;

2. ***All incidences of repeated and deliberate bullying of a student by another student, school employee, or volunteer resulting in corporal punishment, suspension, or expulsion;***

3. The number of arrests, the charges, and whether civil damages were pursued by the injured party;

4.~~[3.]~~ The number of suspensions, expulsions, and corporal punishments; and

5.~~[4.]~~ Data required during the assessment process under KRS 158.445.

The department shall provide all data collected relating to this subsection to the Center for School Safety according to timelines established by the center.

Section 5. KRS 160.345 is amended to read as follows:

(1) For the purpose of this section:

(a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school;

(b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal or head teacher and is not a program or part of another school. The term "school" does not include district-operated schools that are:

1. Exclusively vocational-technical, special education, or preschool programs;

2. Instructional programs operated in institutions or schools outside of the district; or

3. Alternative schools designed to provide services to at-risk populations with unique needs;

(c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers; and

(d) "Parent" means:

1. A parent, stepparent, or foster parent of a student; or

2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

(2) Each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:

(a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. A parent representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative shall not be a local board member or a board member's spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees;

(b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. A teacher elected to a school council shall not be involuntarily transferred during his or her term of office. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected. The principal or head teacher shall be the chair of the school council.

2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:

a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and

b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty;

(c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection;

(d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy;

(e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply;

(f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals;

(g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. The school council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment;

(h) From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council, consistent with subsection (2)(i)10. of this section. The superintendent may forward to the school council the names of qualified applicants who have pending certification from the Education Professional Standards Board based on recent completion of preparation requirements, out-of-state preparation, or alternative routes to certification pursuant to KRS 161.028 and 161.048. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. When a vacancy in the school principalship occurs, the school council shall receive training in recruitment and interviewing techniques prior to carrying out the process of selecting a principal. The council shall select the trainer to deliver the training. Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. Applicants subsequently employed shall provide evidence that they are certified prior to assuming the duties of a position in accordance with KRS 161.020. The superintendent shall provide additional applicants upon request when qualified applicants are available;

(i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment and curriculum development;

2. Assignment of all instructional and noninstructional staff time;

3. Assignment of students to classes and programs within the school;

4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;

5. Determination of use of school space during the school day;

6. Planning and resolution of issues regarding instructional practices;

7. Selection and implementation of discipline and classroom management techniques***, including procedures to address repeated and deliberate bullying*** as a part of a comprehensive school safety plan***.***[~~, including~~] Responsibilities of the student, parent, teacher, counselor, and principal ***shall be addressed***;

8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;

9. Procedures, consistent with local school board policy, for determining alignment with state standards,

technology utilization, and program appraisal; and

10. Procedures to assist the council with consultation in the selection of personnel by the principal, including, but not limited to, meetings, timelines, interviews, review of written applications, and review of references. Procedures shall address situations in which members of the council are not available for consultation; and

(j) Each school council shall annually review data on its students' performance as shown by the Commonwealth Accountability Testing System. The data shall include but not be limited to information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, and participation in the federal free and reduced price lunch program. After completing the review of data, each school council, with the involvement of parents, faculty, and staff, shall develop and adopt a plan to ensure that each student makes progress toward meeting the goals set forth in KRS 158.645 and 158.6451(1)(b) by April of each year and submit the plan to the superintendent and local board of education for review as described in KRS 160.340. The Kentucky Department of Education shall provide each school council the data needed to complete the review required by this paragraph no later than November 1 of each year. If a school does not have a council, the review shall be completed by the principal with the involvement of parents, faculty, and staff.

(3) The policy adopted by the local board to implement school-based decision making shall also address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;

(d) Professional development plans developed pursuant to KRS 156.095;

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies;

(h) Requirements for record keeping by the school council; and

(i) A process for appealing a decision made by a school council.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school meeting its goal as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making no later than one hundred twenty (120) days after the beginning of the service year for which they are elected to serve. Experienced members may participate in the training for new members to fulfill their training requirement. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education. By November 1 of each year, the principal through the local superintendent shall forward to the Department of Education the names and addresses of each council member and verify that the required training has been completed. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.

(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making, including but not limited to a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the commissioner of education and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been

developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

(8) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development in compliance with requirements specified in KRS 156.095, except as provided in KRS 158.649. School councils of small schools shall be encouraged to work with other school councils to maximize professional development opportunities.

(9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.

(b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.

(c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.

(d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

The Committee Substitute to **HB 540** is as follows:

HB 540, AN ACT relating to the safety and well-being of students.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.441 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) ***"Bullying" means any deliberate and repeated force or threat of force to willfully injure, intimidate, interfere with, or threaten a student that has the effect of:***

(a) Physically harming a student;

(b) Damaging a student's property;

(c) Materially or substantially disrupting the orderly operation of the school; or

(d) Creating a hostile environment which substantially interferes with a student's educational benefits, opportunities, or performance, or with a student's physical or psychological well-being.

(2) "Intervention services" means any preventive, developmental, corrective, supportive services or treatment provided to a student who is at risk of school failure, is at risk of participation in violent behavior or juvenile crime, or has been expelled from the school district. Services may include, but are not limited to, screening to identify students at risk for emotional disabilities and antisocial behavior; direct instruction in academic, social, problem solving, and conflict resolution skills; alternative educational programs; psychological services; identification and assessment of abilities; counseling services; medical services; day treatment; family services; work and community service programs.

(3)[~~(2)~~] "School resource officer" means a sworn law enforcement officer who has specialized training to work with youth at a school site. The school resource officer shall be employed through a contract between a local law enforcement agency and a school district.

(4) "Volunteers" has the same meaning as in KRS 161.148.

Section 2. KRS 158.148 is amended to read as follows:

(1) In cooperation with the Kentucky Education Association, the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Parent-Teachers Association, the Kentucky Chamber of Commerce, the Farm Bureau, members of the Interim Joint Committee on Education, and other interested groups, and in collaboration with the Center for School Safety, the Department of Education shall develop ***and provide to local education agencies***:

(a) Statewide student discipline guidelines to ensure safe schools;[~~ and~~]

(b) ***A sample policy to address deliberate and repeated bullying that shall include prevention, intervention, and follow-up services for the bully and the victim; and***

(c) Recommendations designed to improve the learning environment and school climate, parental and community involvement in the schools, and student achievement.

(2) The department shall obtain statewide data on major discipline problems and reasons why students drop out of school. In addition, the department, in collaboration with the Center for School Safety, shall identify successful strategies currently being used in programs in Kentucky and in other states and shall incorporate those strategies into the statewide guidelines and the recommendations under subsection (1) of this section.

(3) Copies of the discipline guidelines shall be distributed to all school districts. The statewide guidelines shall contain broad principles to guide local districts in developing their own discipline code and school councils in the selection of discipline and classroom management techniques under KRS 158.154; and in the development of the district-wide safety plan.

(4) Each local board of education shall be responsible for formulating a code of acceptable behavior and discipline to apply to the students in each school operated by the board.

(a) The superintendent, or designee, shall be responsible for overall implementation and supervision, and each school principal shall be responsible for administration and implementation within each school. Each school council shall select and implement the appropriate discipline and classroom management techniques necessary to carry out the code. The board shall establish a process for a two-way communication system for teachers and other employees to notify a principal, supervisor, or other administrator of an existing emergency.

(b) The code shall contain the type of behavior expected from each student, the consequences of failure to obey the standards, and the importance of the standards to the maintenance of a safe learning environment where orderly learning is possible and encouraged.

(c) *The code shall include provisions to address student behavior that materially or substantially disrupts the education process, or has the effect of substantially denying another student access to education opportunities, or school-related programs. The code shall require students to exercise civility in interactions with other students, faculty, and staff. For the purpose of this section, civility shall be defined to prohibit, among other behaviors, physical assault, threats, lewd, profane, or vulgar language, verbal or physical abuse, and any other act which is prohibited by KRS 158.150(1). Civility shall not be interpreted to prohibit civil exchange of opinions or debate protected under state or federal Constitution, where the opinions expressed do not otherwise materially or substantially disrupt the education process.*

(d) The code shall prohibit the deliberate and repeated bullying of a student, defined in a manner no less inclusive than the definition in Section 1 of this Act, and shall contain:

1. Procedures for reporting any incident of repeated and deliberate bullying, including a provision that permits a person to report an incident anonymously;

2. Procedures for the prompt investigation of a complaint; and

3. Provisions for the discipline of a student who retaliates against a student who reports misconduct.

(e) The principal of each school shall apply the code of behavior and discipline uniformly and fairly to each student at the school without partiality or discrimination.

(f)[~~(d)~~] A copy of the code of behavior and discipline adopted by the board of education shall be posted *in a prominent location* at each school. Guidance counselors shall be provided copies for discussion with students. The code shall be referenced in all school handbooks. All school employees and parents shall be provided copies of the code.

(g) A local school district shall:

1. Incorporate information regarding the code of acceptable behavior and discipline into the district's employee training manual; and

2. Implement an annual process for discussing the code with students and informing the students of the consequences of violating the code.

Section 3. KRS 158.150 is amended to read as follows:

(1) All pupils admitted to the common schools shall comply with the lawful regulations for the government of the schools:

(a) Willful disobedience or defiance of the authority of the teachers or administrators, use of profanity or vulgarity, assault or battery or abuse of other students, *repeated and deliberate bullying of other students,* the threat of force or violence, the use or possession of alcohol or drugs, stealing or destruction or defacing of school property or personal property of students, the carrying or use of weapons or dangerous instruments, or other incorrigible bad conduct on school property, as well as off school property at school-sponsored activities, constitutes cause for suspension or expulsion from school; and

(b) Assault or battery or abuse of school personnel; stealing or willfully or wantonly defacing, destroying, or damaging the personal property of school personnel on school property, off school property, or at school-sponsored activities constitutes cause for suspension or expulsion from school.

(2) Each local board of education shall adopt a policy requiring the expulsion from school for a period of not less than one (1) year for a student who is determined by the board to have brought a weapon to a school under its jurisdiction. The board shall also adopt a policy requiring disciplinary actions, up to and including expulsion from school, for a student who is determined by the board to have possessed prescription drugs or controlled substances for the purpose of sale or

distribution at a school under the board's jurisdiction, or to have physically assaulted or battered or abused educational personnel or other students at a school or school function under the board's jurisdiction. The board may modify the expulsion requirement for students on a case-by-case basis. A board that has expelled a student from the student's regular school setting shall provide or assure that educational services are provided to the student in an appropriate alternative program or setting, unless the board has made a determination, on the record, supported by clear and convincing evidence, that the expelled student poses a threat to the safety of other students or school staff and cannot be placed into a state-funded agency program. Other intervention services as indicated for each student may be provided by the board or by agreement with the appropriate state or community agency. A state agency that provides the service shall be responsible for the cost. In determining whether a student has brought a weapon to school, a local board of education shall use the definition of "unlawful possession of a weapon on school property" stated in KRS 527.070.

(3) School administrators, teachers, or other school personnel may immediately remove or cause to be removed threatening or violent students from a classroom setting or from the district transportation system pending any further disciplinary action that may occur. Each board of education shall adopt a policy to assure the implementation of this section and to assure the safety of the students and staff.

(4) A pupil shall not be suspended from the common schools until after at least the following due process procedures have been provided:

(a) The pupil has been given oral or written notice of the charge or charges against him which constitute cause for suspension;

(b) The pupil has been given an explanation of the evidence of the charge or charges if the pupil denies them; and

(c) The pupil has been given an opportunity to present his own version of the facts relating to the charge or charges.

These due process procedures shall precede any suspension from the common schools unless immediate suspension is essential to protect persons or property or to avoid disruption of the ongoing academic process. In such cases, the due process procedures outlined above shall follow the suspension as soon as practicable, but no later than three (3) school days after the suspension.

(5) The superintendent, principal, assistant principal, or head teacher of any school may suspend a pupil but shall report the action in writing immediately to the superintendent and to the parent, guardian, or other person having legal custody or control of the pupil. The board of education of any school district may expel any pupil for misconduct as defined in subsection (1) of this section, but the action shall not be taken until the parent, guardian, or other person having legal custody or control of the pupil has had an opportunity to have a hearing before the board. The decision of the board shall be final.

(6) (a) Suspension of exceptional children, as defined in KRS 157.200, shall be considered a change of educational placement if:

1. The child is removed for more than ten (10) consecutive days during a school year; or

2. The child is subjected to a series of removals that constitute a pattern because the removals accumulate to more than ten (10) school days during a school year and because of other factors, such as the length of each removal, the total amount of time the child is removed, and the proximity of removals to one another.

(b) The admissions and release committee shall meet to review the placement and make a recommendation for continued placement or a change in placement and determine whether regular suspension or expulsion procedures apply. Additional evaluations shall be completed, if necessary.

(c) If the admissions and release committee determines that an exceptional child's behavior is related to his disability, the child shall not be suspended any further or expelled unless the current placement could result in injury to the child, other children, or the educational personnel, in which case an appropriate alternative placement shall be provided that will provide for the child's educational needs and will provide a safe learning and teaching environment for all. If the admissions and release committee determines that the behavior is not related to the disability, the local educational agency may pursue its regular suspension or expulsion procedure for the child, if the behavior so warrants. However, educational services shall not be terminated during a period of expulsion and during a suspension after a student is suspended for more than a total of ten (10) days during a school year. A district may seek temporary injunctive relief through the courts if the parent and the other members of the admissions and release committee cannot agree upon a placement and the current placement will likely result in injury to the student or others.

(7) Suspension of primary school students shall be considered only in exceptional cases where there are safety issues for the child or others.

Section 4. KRS 158.444 is amended to read as follows:

(1) The Kentucky Board of Education shall promulgate appropriate administrative regulations relating to school safety, student discipline, and related matters.

(2) The Kentucky Department of Education shall:

(a) Collaborate with the Center for School Safety in carrying out the center's mission; and

(b) Establish and maintain a statewide data collection system by which school districts shall report by sex, race, and grade level:

1. All incidences of violence and assault against school employees and students; incidences of possession of guns or other deadly weapons on school property or at school functions; and incidences of the possession or use of alcohol, prescription drugs, or controlled substances on school property or at school functions;

2. ***All incidences of repeated and deliberate bullying of a student by another student resulting in corporal punishment, suspension, or expulsion;***

3. The number of arrests, the charges, and whether civil damages were pursued by the injured party;

4.[~~3.~~] The number of suspensions, expulsions, and corporal punishments; and

5.[~~4.~~] Data required during the assessment process under KRS 158.445.

The department shall provide all data collected relating to this subsection to the Center for School Safety according to timelines established by the center.

Section 5. KRS 160.345 is amended to read as follows:

(1) For the purpose of this section:

(a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school;

(b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal or head teacher and is not a program or part of another school. The term "school" does not include district-operated schools that are:

1. Exclusively vocational-technical, special education, or preschool programs;

2. Instructional programs operated in institutions or schools outside of the district; or

3. Alternative schools designed to provide services to at-risk populations with unique needs;

(c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers; and

(d) "Parent" means:

1. A parent, stepparent, or foster parent of a student; or

2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

(2) Each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:

(a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. A parent representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative shall not be a local board member or a board member's spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees;

(b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. A teacher elected to a school council shall not be involuntarily transferred during his or her term of office. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected. The principal or head teacher shall be the chair of the school council.

2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:

a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and

b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty;

(c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection;

(d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy;

(e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply;

(f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals;

(g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. The school council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment;

(h) From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council, consistent with subsection (2)(i)10. of this section. The superintendent may forward to the school council the names of qualified applicants who have pending certification from the Education Professional Standards Board based on recent completion of preparation requirements, out-of-state preparation, or alternative routes to certification pursuant to KRS 161.028 and 161.048. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. When a vacancy in the school principalship occurs, the school council shall receive training in recruitment and interviewing techniques prior to carrying out the process of selecting a principal. The council shall select the trainer to deliver the training. Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. Applicants subsequently employed shall provide evidence that they are certified prior to assuming the duties of a position in accordance with KRS 161.020. The superintendent shall provide additional applicants upon request when qualified applicants are available;

(i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment and curriculum development;
2. Assignment of all instructional and noninstructional staff time;
3. Assignment of students to classes and programs within the school;
4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
5. Determination of use of school space during the school day;
6. Planning and resolution of issues regarding instructional practices;
7. Selection and implementation of discipline and classroom management techniques***, including procedures to address repeated and deliberate bullying*** as a part of a comprehensive school safety plan***.***[~~, including~~] Responsibilities of the student, parent, teacher, counselor, and principal ***shall be addressed***;
8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;
9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal; and

10. Procedures to assist the council with consultation in the selection of personnel by the principal, including, but not limited to, meetings, timelines, interviews, review of written applications, and review of references. Procedures shall address situations in which members of the council are not available for consultation; and

(j) Each school council shall annually review data on its students' performance as shown by the Commonwealth Accountability Testing System. The data shall include but not be limited to information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, and participation in the federal free and reduced price lunch program. After completing the review of data, each school council, with the involvement of parents, faculty, and staff, shall develop and adopt a plan to ensure that each student makes progress toward meeting the goals set forth in KRS 158.645 and 158.6451(1)(b) by April of each year and submit the plan to the superintendent and local board of education for review as described in KRS 160.340. The Kentucky Department of Education shall provide each school council the data needed to complete the review required by this paragraph no later than November 1 of each year. If a school does not have a council, the review shall be completed by the principal with the involvement of parents, faculty, and staff.

(3) The policy adopted by the local board to implement school-based decision making shall also address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;

(d) Professional development plans developed pursuant to KRS 156.095;

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies;

(h) Requirements for record keeping by the school council; and

(i) A process for appealing a decision made by a school council.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school meeting its goal as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making no later than one hundred twenty (120) days after the beginning of the service year for which they are elected to serve. Experienced members may participate in the training for new members to fulfill their training requirement. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education. By November 1 of each year, the principal through the local superintendent shall forward to the Department of Education the names and addresses of each council member and verify that the required training has been completed. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.

(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making, including but not limited to a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the commissioner of education and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that

two-thirds (2/3) of the faculty have agreed to the model.

(8) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development in compliance with requirements specified in KRS 156.095, except as provided in KRS 158.649. School councils of small schools shall be encouraged to work with other school councils to maximize professional development opportunities.

(9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.

(b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.

(c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.

(d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

SB 28, AN ACT relating to education and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days, including no less than the equivalent of one hundred seventy-five (175) six (6) hour instructional days. A board of education may extend its term beyond the minimum term.

(2) The local board of education, upon recommendation of the local school district superintendent, shall adopt a school calendar for the upcoming school year that establishes the opening and closing dates of the school term, beginning and ending dates of each school month, instructional days, and days on which schools shall be dismissed. The local board may schedule days for breaks in the school calendar that shall not be counted as a part of the minimum school term.

(3) Any local board of education operating its schools on a year-round school program basis shall conform with administrative regulations promulgated and adopted by the Kentucky Board of Education upon the recommendation of the commissioner of education, which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;

(b) A pupil's required attendance in school shall be for at least the minimum instructional term; and

(c) No teacher shall be required to teach more than the minimum term during the school year.

(4) (a) Each local board of education shall use four (4) days of the minimum school term for professional development and collegial planning activities for the professional staff without the presence of pupils pursuant to the requirements of KRS 156.095. At the discretion of the superintendent, one (1) day of professional development may be used for district-wide activities and for training that is mandated by federal or state law. The use of three (3) days shall be planned by each school council, except that the district is encouraged to provide technical assistance and leadership to school councils to maximize existing resources and to encourage shared planning.

(b) A local board may approve a school's flexible professional development plan that permits teachers or other certified personnel within a school to participate in professional development activities outside the days scheduled in the school calendar or the regularly scheduled hours in the school work day and receive credit towards the four (4) day professional development requirement within the minimum one hundred eighty-five (185) days that a teacher shall be employed.

1. A flexible schedule option shall be reflected in the school's professional development component within the school improvement plan or consolidated plan and approved by the local board. Credit for approved professional development activities may be accumulated in periods of time other than full day segments.

2. No teacher or administrator shall be permitted to count participation in a professional development activity under the flexible schedule option unless the activity is related to the teacher's classroom assignment and content area, or the administrator's job requirements, or is required by the school improvement or

consolidated plan, or is tied to the teacher's or the administrator's individual growth plan. The supervisor shall give prior approval and shall monitor compliance with the requirements of this paragraph. In the case of teachers, a professional development committee or the school council by council policy may be responsible for reviewing requests for approval.

(c) The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays; provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday.

(d) Each local board may use two (2) days for planning activities without the presence of pupils.

(e) Each local board may use the number of days deemed necessary for:

1. National or state disaster or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;

2. Local disaster which would endanger the health or safety of children; and

3. Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the commissioner of education.

(5) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt administrative regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in subsection (4)(e)2. of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for professional development and planning activities for the professional staff.

(6) (a) In setting the school calendar, school may be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings. These two (2) days for statewide professional meetings may be scheduled to begin with the first Thursday after Easter, or upon request of the statewide professional education association having the largest paid membership, the commissioner of education may designate alternate dates. If schools are scheduled to operate during days designated for the statewide professional meeting, the school district shall permit teachers who are delegates to attend as compensated professional leave time and shall employ substitute teachers in their absence. The commissioner of education shall designate one (1) additional day during the school year when schools shall be closed to permit professional school employees to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term. School shall be closed on the day of a regular election, and may be closed on the day of a primary election, and those days may be used for professional development activities, professional meetings, or parent-teacher conferences.

(b) All schools shall be closed on the third Monday of January in observance of the birthday of Martin Luther King, Jr. Districts may:

1. Designate the day as one (1) of the four (4) holidays permitted under subsection (4)(c) of this section; or

2. Not include the day in the minimum school term specified in subsection (1) of this section.

(7) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.

(8) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts and shall include criteria by which the commissioner of education may approve a district's request for a waiver to use an alternative service delivery option, including providing services during the school day on a limited basis. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. A school district that has a school operating a model early reading program under KRS 158.792 may use a portion of its grant money as part of the matching funds to provide individualized or small group reading instruction to qualified students outside of the regular classroom during the school day.

(9) Notwithstanding any other statute, each school term shall include no less than the equivalent of the minimum number of instructional days required by this section.

(10) Notwithstanding the provisions of KRS 158.060(3) and the provisions of subsection (1) of this section, a school district shall arrange bus schedules so that all buses arrive in sufficient time to provide breakfast prior to the instructional day. In the event of an unforeseen bus delay, the administrator of a school that participates in the Federal School Breakfast Program may authorize up to fifteen (15) minutes of the six (6) hour instructional day if necessary to provide the opportunity for children to eat breakfast not to exceed eight (8) times during the school year within a school building.

(11) Effective for the 2003-2004 academic year and each year thereafter, notwithstanding any other statute to the contrary, the following provisions apply to school personnel in a school district for which the Department of Education has

approved, for a specific school year, a school calendar containing a provision that additional instructional time each day shall be used to make up full days which may be missed due to emergencies, including weather-related situations:

(a) Extended instructional time beyond the normal instructional day shall be used for the purposes of calculating equivalent time to be applied toward the minimum one hundred eighty-five (185) day school calendar required under subsection (1) of this section. The additional time shall also be considered as equivalent time to be applied toward the calculation of service credit for retirement under KRS 161.500 for certified employees. The additional time shall also be calculated as equivalent time to be applied toward the calculation of service credit for classified employees under KRS 78.615 for those classified employees whose contract requires a minimum six (6) hour work day and whose job responsibilities are extended when the instructional time is extended for purposes of making up time.

(b) Classified employees who are regularly scheduled to work less than six (6) hours each day and who do not have additional work responsibilities as a result of lengthened instructional days shall be excluded from the provisions of this subsection. Classified employees who are regularly scheduled to work less than six (6) hours each day may be assigned additional work responsibilities to make up service credit lost due to lengthened instructional days.

Section 2. Whereas numerous school districts will be forced to lengthen school days during the current school year in order for students to make up instructional time lost due to inclement weather and weather-related emergencies, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The House Committee Substitute to **SB 28** is as follows:

SB 28, AN ACT relating to education and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days, including no less than the equivalent of one hundred seventy-five (175) six (6) hour instructional days. A board of education may extend its term beyond the minimum term.

(2) The local board of education, upon recommendation of the local school district superintendent, shall adopt a school calendar for the upcoming school year that establishes the opening and closing dates of the school term, beginning and ending dates of each school month, instructional days, and days on which schools shall be dismissed. The local board may schedule days for breaks in the school calendar that shall not be counted as a part of the minimum school term.

(3) Any local board of education operating its schools on a year-round school program basis shall conform with administrative regulations promulgated and adopted by the Kentucky Board of Education upon the recommendation of the commissioner of education, which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;

(b) A pupil's required attendance in school shall be for at least the minimum instructional term; and

(c) No teacher shall be required to teach more than the minimum term during the school year.

(4) (a) Each local board of education shall use four (4) days of the minimum school term for professional development and collegial planning activities for the professional staff without the presence of pupils pursuant to the requirements of KRS 156.095. At the discretion of the superintendent, one (1) day of professional development may be used for district-wide activities and for training that is mandated by federal or state law. The use of three (3) days shall be planned by each school council, except that the district is encouraged to provide technical assistance and leadership to school councils to maximize existing resources and to encourage shared planning.

(b) A local board may approve a school's flexible professional development plan that permits teachers or other certified personnel within a school to participate in professional development activities outside the days scheduled in the school calendar or the regularly scheduled hours in the school work day and receive credit towards the four (4) day professional development requirement within the minimum one hundred eighty-five (185) days that a teacher shall be employed.

1. A flexible schedule option shall be reflected in the school's professional development component within the school improvement plan or consolidated plan and approved by the local board. Credit for approved professional development activities may be accumulated in periods of time other than full day segments.

2. No teacher or administrator shall be permitted to count participation in a professional development activity under the flexible schedule option unless the activity is related to the teacher's classroom assignment and content area, or the administrator's job requirements, or is required by the school improvement or consolidated plan, or is tied to the teacher's or the administrator's individual growth plan. The supervisor shall give prior approval and shall monitor compliance with the requirements of this paragraph. In the case of teachers, a professional development committee or the school council by council policy may be responsible for reviewing requests for approval.

(c) The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays; provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday.

(d) Each local board may use two (2) days for planning activities without the presence of pupils.

(e) Each local board may use the number of days deemed necessary for:

1. National or state disaster or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;

2. Local disaster which would endanger the health or safety of children; and

3. Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the commissioner of education.

(5) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt administrative regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in subsection (4)(e)2. of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for professional development and planning activities for the professional staff.

(6) (a) In setting the school calendar, school may be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings. These two (2) days for statewide professional meetings may be scheduled to begin with the first Thursday after Easter, or upon request of the statewide professional education association having the largest paid membership, the commissioner of education may designate alternate dates. If schools are scheduled to operate during days designated for the statewide professional meeting, the school district shall permit teachers who are delegates to attend as compensated professional leave time and shall employ substitute teachers in their absence. The commissioner of education shall designate one (1) additional day during the school year when schools shall be closed to permit professional school employees to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term. School shall be closed on the day of a regular election, and may be closed on the day of a primary election, and those days may be used for professional development activities, professional meetings, or parent-teacher conferences.

(b) All schools shall be closed on the third Monday of January in observance of the birthday of Martin Luther King, Jr. Districts may:

1. Designate the day as one (1) of the four (4) holidays permitted under subsection (4)(c) of this section; or

2. Not include the day in the minimum school term specified in subsection (1) of this section.

(7) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.

(8) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts and shall include criteria by which the commissioner of education may approve a district's request for a waiver to use an alternative service delivery option, including providing services during the school day on a limited basis. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. A school district that has a school operating a model early reading program under KRS 158.792 may use a portion of its grant money as part of the matching funds to provide individualized or small group reading instruction to qualified students outside of the regular classroom during the school day.

(9) Notwithstanding any other statute, each school term shall include no less than the equivalent of the minimum number of instructional days required by this section.

(10) Notwithstanding the provisions of KRS 158.060(3) and the provisions of subsection (1) of this section, a school district shall arrange bus schedules so that all buses arrive in sufficient time to provide breakfast prior to the instructional day. In the event of an unforeseen bus delay, the administrator of a school that participates in the Federal School Breakfast Program may authorize up to fifteen (15) minutes of the six (6) hour instructional day if necessary to provide the opportunity for children to eat breakfast not to exceed eight (8) times during the school year within a school building.

(11) Notwithstanding any other statute to the contrary, the following provisions shall apply to a school district that misses school days due to emergencies, including weather-related emergencies:

(a) A certified school employee shall be considered to have fulfilled the minimum one hundred eighty-five (185) day contract with a school district under KRS 157.350 and shall be given credit for the purpose of calculating service credit for retirement under KRS 161.500 for certified school personnel if:

1. State requirements under this section are met regarding the equivalent of the number and length of instructional days, professional development days, holidays, and days for planning activities without the presence of pupils; and

2. The provisions of the district's school calendar to make up school days missed due to any emergency, as approved by the Kentucky Department of Education, including but not limited to a provision for additional instructional time per day, are met.

(b) Additional time worked by a classified school employee shall be considered as equivalent time to be applied toward the employee's contract and calculation of service credit for classified employees under KRS 78.615 if:

1. The employee works for a school district with a school calendar approved by the Kentucky Department of Education that contains a provision that additional instructional time per day shall be used to make up full days missed due to an emergency;

2. The employee's contract requires a minimum six (6) hour work day; and

3. The employee's job responsibilities and work day are extended when the instructional time is extended for the purposes of making up time.

(c) Classified employees who are regularly scheduled to work less than six (6) hours per day and who do not have additional work responsibilities as a result of lengthened instructional days shall be excluded from the provisions of this subsection. These employees may be assigned additional work responsibilities to make up service credit under KRS 78.615 that would be lost due to lengthened instructional days.

Section 2. Whereas numerous school districts will be forced to lengthen school days during the current school year in order for students to make up instructional time lost due to inclement weather and weather-related emergencies, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee on Tourism Development and Energy reported **HB 577**, with Committee Substitute attached thereto, **HB 539**, and **SB 161**, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 577, AN ACT relating to coalbed methane development and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 349 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly hereby declares:

(a) The venting of coalbed methane and degasification of coal seams is approved by the Commonwealth for the purpose of ensuring the safe recovery of coal;

(b) The economic impact of coal mining to the Commonwealth is currently greater than that of coalbed methane production;

(c) Coalbed methane is not found in conventional gas reservoirs;

(d) Any development of coalbed methane should be undertaken in a way to protect and preserve the environment and preserve the coal for future safe mining and the maximum recovery of coal;

(e) Commercial recovery and marketing of coalbed methane should be facilitated whenever appropriate to meet the energy needs of both the Commonwealth and the United States;

(f) The extraction of methane from mineable coal enhances mine safety, promotes environmental goals and objectives, and conserves an important energy resource; and

(g) The Energy Policy Act of 1992 was enacted, in part, to encourage coalbed methane development and the Commonwealth should enact legislation to carry out the purpose of that Act.

(2) Therefore, in order to encourage and ensure the fullest practical safe recovery of both coal and coalbed methane, consistent with the above declarations and findings, this chapter is established to:

(a) Authorize coalbed methane well permits;

(b) Regulate the design of coalbed methane wells and recovery techniques;

(c) Authorize coalbed methane well drilling units and pooling interests therein;

(d) Establish field rules; and

(e) Provide a process to enable coalbed methane well operators and coalbed methane owners to proceed with the orderly development and production of coalbed methane pending the judicial resolution of issues relating to coalbed methane ownership.

(3) Notwithstanding subsections (1) and (2) of this section, the General Assembly expressly finds that establishing an orderly process to permit and produce coalbed methane shall in no way be construed to create an inference or

presumption as to the ownership of coalbed methane in any judicial or administrative proceeding, or be construed to or be used or interpreted to apply to any well otherwise permitted, approved, or regulated under KRS Chapter 353, except for any wells that are to be permitted, converted to, or operated as coalbed methane wells.

(4) It is hereby declared to be the public policy of this Commonwealth and in the public interest to:

(a) Safeguard, preserve, and protect coal seams for safe mining; facilitate the expeditious, safe evacuation of coalbed methane from the coalbeds of this state; and maintain the ability and right of coal operators at all times to vent coalbed methane from mine areas for the safe recovery of coal;

(b) Foster, encourage, and promote the commercial development of the Commonwealth's coalbed methane by establishing procedures for issuing permits and forming drilling units for coalbed methane wells without adversely affecting the safety of mining or the mineability of coal seams;

(c) Safeguard, protect, and enforce the correlative rights of coalbed methane operators and coalbed methane owners in a pool of coalbed methane so that each operator and owner may obtain his or her just and equitable share of production from coalbed methane;

(d) Create a state permitting procedure and authority to provide for and facilitate coalbed methane development as encouraged by the Energy Policy Act of 1992; and

(e) Seek the deletion of the Commonwealth of Kentucky from the list of affected states by the Secretary of the United States Department of Interior as provided for in the Energy Policy Act of 1992.

SECTION 2. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

As used in this chapter:

(1) "Abandoned" when used in connection with a well or hole means a well or hole which has never been used, or which, in the opinion of the department, will no longer be used for the production of coalbed methane for the injection or disposal of fluid therein;

(2) "Coal interest holder" means every record coal owner, record coal lessee, mine licensee as defined in KRS 352.010(1)(r) and mine permittee as defined in KRS 350.010(21) whose coalbed is penetrated, or proposed to be penetrated, by a coalbed methane well;

(3) "Coalbed" or "coal seam" means a seam of coal, whether workable or unworkable;

(4) "Coalbed methane" means gas produced from a reservoir found in a coalbed, a mined-out area, or a gob;

(5) "Coalbed methane well" means any well drilled, deepened, converted, or reopened for the purpose of capturing coalbed methane for sale or use. Any well initially used for a coal mining-related purpose, such as a vent well, but which is subsequently used for the purpose of recovering coalbed methane for sale or use, shall then be deemed to be a coalbed methane well and shall comply with the provisions of this chapter at the time that the well is converted or used for the purpose of recovering coalbed methane for sale or use;

(6) "Commissioner" means the commissioner of the Department of Natural Resources;

(7) "Correlative rights" means the reasonable opportunity of each person entitled to recover, without waste, the coalbed methane in and under his or her tract or tracts, or the equivalent thereof;

(8) "Department" means the Department of Natural Resources;

(9) "Director" means the director of oil and gas conservation as established in KRS 353.530;

(10) "Drilling unit" means the maximum area in a pool which may be drained efficiently by one (1) well so as to produce the reasonable maximum recoverable coalbed methane in the area. Where the department has provided rules for the establishment of a drilling unit and an operator, proceeding within the framework of the rules so prescribed, has taken the action necessary to have a specified area established for production from a well, the area shall be a drilling unit;

(11) "DSMRE" means the Department for Surface Mining Reclamation and Enforcement as established in KRS 350.035;

(12) "Field rules" means rules issued by the review board relating to the drilling, completion, production, and specification for coalbed methane wells in a particular geographic area as defined by an order;

(13) "Gob" means the de-stressed zone associated with any full-seam extraction of coal that extends above and below the mined-out coalbed;

(14) "Gob well" means a well drilled or a vent hole converted to a well pursuant to this chapter which produces or is capable of producing coalbed methane for sale or use, from a de-stressed zone associated with any full seam extraction of coal that extends above or below a mined-out coalbed;

(15) "Horizontally drill" or "horizontal drilling" means the intentional act of drilling a borehole, shaft, or hole, which deviates from vertical for the purpose of penetrating a coal seam to produce coalbed methane;

(16) "Mine licensee" means the mine licensee as defined in KRS 352.010(1)(r);

(17) "Mine permittee" means the permittee as defined in KRS 350.010(21);

(18) "Nonparticipating working interest owner" means a coalbed methane owner or lessee of a tract included in a drilling unit who elects to share in the operation of the coalbed methane well on a carried basis by agreeing to have his or her

proportionate share of the costs allocable to his or her interest charged against his or her share of production from the coalbed methane well;

(19) "Nonparticipating operator" means a nonparticipating working interest owner who is also the operator of the coalbed methane well;

(20) "Operator" means any owner of the right to drill, develop, operate, and produce coalbed methane from a pool and to appropriate the coalbed methane produced therefrom, either for himself or herself, or for himself, herself, and others; in the event there is no coalbed methane lease in existence with respect to the tract in question, the owner of the coalbed methane rights therein shall be considered as an "operator" to the extent of seven-eighths (7/8) of the coalbed methane in that portion of the pool underlying the tract owned by that owner, and as a "royalty owner" as to one-eighth (1/8) interest in that coalbed methane;

(21) "Other interested coalbed methane parties" means all working interest owners other than the operator, all royalty and overriding royalty interest owners or holders, and any other party who owns or holds a right or interest in a drilling unit, coalbed methane well site for which a drilling permit has been issued or is pending, and all associated equipment, facilities, infrastructure, and improvements;

(22) "Participating working interest owner" means a coalbed methane owner or lessee who elects to bear a share of the risks and costs of drilling, completing, equipping, operating, plugging, and abandoning a coalbed methane well equal to the proportion which the acreage in the drilling unit he or she owns or holds under lease bears to the total acreage of the drilling unit;

(23) "Participating operator" means a participating working interest owner who is also the operator of the coalbed methane well;

(24) "Person" means any person, corporation, association, partnership, limited liability company, receiver, governmental agency subject to this chapter, trustee, so-called common law or statutory trust, guardian, executor, administrator, or fiduciary of any kind, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;

(25) "Plat" means a map, drawing, or print showing the location of a well;

(26) "Review board" means the Coalbed Methane Well Review Board;

(27) "Royalty owner" means any owner of coalbed methane in place, or coalbed methane rights, to the extent that the owner is not an operator as defined in subsection (20) of this section;

(28) "Stimulate" means any action taken to increase the flow of coalbed methane, or the inherent productivity of a coalbed methane well, including but not limited to fracturing, shooting, acidizing, or waterflooding, but excluding cleaning out, bailing, or workover operations;

(29) "Unit" means any tract or tracts which the department has determined are underlaid by a pool or pools of coalbed methane and are not drilling units as defined in subsection (10) of this section;

(30) "Unitization" means the act of combining separately owned tracts or separate interests therein into a unit constituting all or some portion of a coalbed that produces or is capable of producing coalbed methane and the joint operation of that unit;

(31) "Unit operator" means the party designated in a pooling order to develop a spacing unit by the drilling of one or more coalbed methane wells;

(32) "Vent hole" means a borehole, shaft driven, or hole dug, drilled, deepened, converted or reopened, which is used for the purpose of releasing or venting coalbed methane to the atmosphere and not for the purpose of capturing or producing coalbed methane for sale or use;

(33) "Venting" means the act of releasing coalbed methane to the atmosphere;

(34) "Well" means any borehole, shaft driven, or hole dug, drilled, deepened, converted or reopened for the purpose of capturing or producing coalbed methane for sale or use; and

(35) "Workable coalbed" means:

(a) Any coalbed twenty-four (24) inches or more in thickness;

(b) Any coalbed actually being operated commercially;

(c) Any coalbed that the department decides can be operated commercially, and the operation of which can reasonably be expected to commence within not more than ten (10) years; or

(d) Any coalbed that, from outcrop indication or other definite evidence, proves to the satisfaction of the department to be workable and, when operated, will require protection if wells are drilled through or into it.

SECTION 3. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Before a permit may be issued by the department to drill a coalbed methane well on any tract known to be underlaid with coal-bearing strata, the well operator shall provide to the department:

(a) A plat prepared by a licensed professional land surveyor and licensed professional engineer showing the county in which the coalbed methane well drill site is located;

(b) The name of the surface owner of the drill site tract, the acreage of the drill site tract, the names of the surface owners of adjacent tracts, the names of all coal interest holders from the surface to fifty (50) feet below the deepest penetration of the coalbed methane well on the tract on which the well is proposed to be located, and the names of all oil and gas owners from the surface to one hundred (100) feet below the deepest penetration of the coalbed methane well on the tract on which the well is proposed to be located;

(c) The proposed or actual location of the coalbed methane well determined by bearing and distance, relative to two (2) permanent points or monuments that appear on the applicable United States Geological Survey seven and one-half (7-1/2) minute topographic quadrangle map;

(d) The location of any other existing or permitted coalbed methane well or any oil or gas well located within one thousand five hundred (1,500) feet of the well;

(e) The outside boundary of the mineral tract from which the coalbed methane is to be produced if within seven hundred fifty (750) feet of the well; and

(f) The number to be given the coalbed methane well, the earliest date for commencement of drilling, the earliest date for commencement of any stimulation of the coalbed methane well, and if horizontal drilling of a coalbed methane well is proposed, the vertical and horizontal alignment and extent of the coalbed methane well.

(2) If the location of any coalbed methane well proposed to be drilled, deepened, or reopened is known to be underlaid by a coal bearing stratum which is not within the area of an existing mining permit or the proposed permitted area of a pending application or permit modification for a mine before the DSMRE, simultaneously with the filing of an application for a permit, the applicant shall send, by registered or certified mail, a copy of the required plat to the record coal owner or owners and record coal lessee or lessees from the surface to fifty (50) feet below the deepest penetration of the coalbed methane well on the tract on which the well is proposed to be located.

(3) If the coal bearing stratum is within the area of an existing mining permit or the proposed permitted area of a pending application or permit modification for a mine before the DSMRE, a copy of the required plat shall also be sent by the applicant, by registered or certified mail, to each mine licensee and mine permittee operating any stratum as designated on the current license issued by the department and at the address stated thereon.

(4) If the address of any record owner is unknown to the applicant and cannot upon diligent inquiry within the county be ascertained, or if there are more than five (5) record owners, then the applicant shall file with the department an affidavit that either condition exists, and the department may prescribe some different method of notifying the record owner in lieu of sending a copy of the plat and notice of application as required by this section.

(5) The plat shall be filed and become a permanent record, subject to inspection at any time by any interested person. Any executive officer of the mine licensee or mine permittee may be considered as a mine licensee or mine permittee. Any process agent or chief engineer may be considered a mine licensee or mine permittee for the purposes of mailing the required copy of the plat.

(6) If a coalbed methane well is proposed to be drilled, deepened, converted, or reopened by an applicant who is not the owner or lessee of all of the oil and gas interests, the applicant shall, simultaneously with the filing of the application for a permit, send by registered or certified mail a copy of the required plat to the record oil and gas lessees of, to the record oil and gas lessors of, and to the operator of all oil and gas wells producing from, all formations from the surface to one hundred (100) feet below the deepest penetration of the coalbed methane well on the tract upon which the well is proposed to be located.

(7) The operator shall promptly upon completion of either a vertically drilled coalbed methane well located ten (10) feet or more from the location reflected on the plat required with the permit application or a horizontally drilled coalbed methane well file with the department an as-drilled plat prepared by a licensed professional land surveyor and a licensed professional engineer reflecting the actual coalbed methane well location. If the operator has completed a horizontally drilled coalbed methane well, the as-drilled plat shall show its alignment and extent. The plat shall become a permanent record subject to inspection at any time by any interested persons.

(8) Each plat, or exhibit attached thereto, shall have the following information on a form supplied by the department:

(a) Notice of the application for a coalbed methane well and the address where a copy of the application may be obtained;

(b) A statement that the recipient has twenty (20) days within which to file an objection to the proposed coalbed methane well, its location, the proposed stimulation in the workable coalbed, or the proposed completion in the workable coalbed; and

(c) A statement that the applicant has met and conferred with, or offered to meet and confer with, each coal interest holder concerning the proposed coalbed methane well, its location, the proposed stimulation in the workable coalbed, or the proposed completion in the workable coalbed.

SECTION 4. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) If the drilling of a coalbed methane well could adversely affect the present or future use or operation of a workable coalbed, any coal interest holder may object to a proposed coalbed methane well, the well's location, the proposed stimulation of the well, or the proposed completion of the well. Any coal interest holder, within twenty (20) days of

receipt of the plat by him or her and by the department, may file specific objections in writing with the department. The filed objections shall provide sufficient detail for the applicant to identify the nature and substance of the objection. The department shall notify the applicant of the objections and fix a time and place for a hearing before the review board to be conducted in accordance with KRS Chapter 13B and this chapter.

(2) If any coal interest holder, notified pursuant to Section 3 of this Act, or any other person, claims to have a valid real property interest in, or the current legal right to produce, coalbed methane, the person claiming the real property interest or right shall notify the applicant and the department, in writing, within twenty (20) days from the receipt of the plat by him or her and by the department. The person also shall request that a pooling order be entered pursuant to subsection (1) of Section 16 of this Act.

(3) If the record oil and gas lessor, lessee, or well operator notified pursuant to Section 3 of this Act, or any other person, claims to have a valid real property interest in, or the current legal right to produce, coalbed methane, the person claiming the real property interest or right shall notify the applicant and the department, in writing, within twenty (20) days from the receipt of the plat by him. The person shall request that a pooling order be entered pursuant to subsection (1) of Section 16 of this Act.

(4) If no objections are filed within the fifteen (15) day period, the department shall immediately issue a drilling permit to the well operator approving the location of the well and authorizing the well operator to proceed to drill at that location, provided all other preconditions to issuance of a permit, as contained in this chapter, have been met.

(5) Upon receipt of an application to drill a coalbed methane well, the department shall provide a copy of the required plat and permit application to DSMRE. Within fifteen (15) days of receipt by DSMRE notification shall be sent to the department as to whether the proposed coalbed methane well will be located within the boundaries of any coal mine for which a permit has been issued or has been applied for pursuant to KRS Chapter 350. If the proposed coalbed methane well is to penetrate a workable coalbed that is within the area of an existing permit for an underground mine issued by DSMRE, or the proposed permitted area of a pending application or permit modification for an underground mine before DSMRE, the written authorization of the mine permittee shall be required prior to issuance by the department of a permit to stimulate, complete, or horizontally drill the coalbed methane well in the workable coalbed that is within the area of an existing permit for an underground mine issued by DSMRE or within the proposed permitted area of a pending application or permit modification for an underground mine before DSMRE. If the proposed coalbed methane well is to be located within a surface area permitted, or proposed in a pending application or permit modification to be issued by DSMRE, the written authorization of the mine permittee shall be required prior to issuance by the department of a permit to drill the coalbed methane well. In the absence of the written authorization of the mine permittee, the applicant may file an appeal with the review board requesting approval to drill the proposed coalbed methane well if:

(a) Authorization has been denied by the mine licensee; and

(b) The proposed location and area to be disturbed by the proposed coalbed methane well has achieved either a partial bond release status or the bond for the area has been forfeited.

SECTION 5. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Prior to the abandonment of a coalbed methane well drilled through a workable coalbed, the well operator shall notify, by certified mail, return receipt requested, or by registered mail, all the coal interest holders of the workable coalbed and the department of the operator's intention to plug and abandon the well. The notice shall give the number of the well and its location, and fix the time at which the work of plugging and filling will be commenced. The time shall not be less than fifteen (15) days after the day on which the notice was received, or in due course should be received, by the department. The department shall prescribe the form of notice to be used. A representative of any coal interest holder, at his or her own expense and liability, and of the department may be present at the plugging and filling of the well. Regardless of whether representatives appear, the well operator may proceed, at the time fixed, to plug and fill the well. When the well is plugged and filled, an affidavit setting forth the time and manner in which the well was plugged shall be made in triplicate by two (2) persons experienced in plugging and filling wells who participated in the work. The affidavit shall be made on forms furnished by the department. One (1) copy of the affidavit shall be retained by the well operators, one (1) provided to each coal interest holder, and one (1) provided to the department.

(2) In addition to the notification required under subsection (1) of this section, prior to the abandonment of a coalbed methane well the operator shall submit a plugging plan which is subject to approval by the department. The proposed plugging plan shall be designed to allow coal mining to occur through the well after the well is plugged.

(3) If a coalbed methane well ceases to produce in paying quantities and no dewatering operations are being conducted for a period of fifteen (15) consecutive months, any coal interest holder or any record oil or gas lessor or lessee of any tract being penetrated by the coalbed methane well, may file a request for hearing pursuant to Section 12 of this Act, to determine whether the well has been abandoned and should be plugged in accordance with this section. However, nothing in this subsection shall require the plugging and abandonment of a coalbed methane well that is being temporarily shut in by the coalbed methane well operator. Simultaneously with the filing of a request for a hearing with the department, the coal interest holder shall send a copy of the request to all record oil or gas lessors and lessees of any tract being penetrated by the coalbed methane well.

(4) Any coal interest holder shall have the following rights with respect to a coalbed methane well to be plugged and

abandoned:

(a) To convert the coalbed methane well to a vent hole or otherwise take the coalbed methane well. In this event the department, upon determination that the coal interest holder has placed the coalbed methane well under a mining permit, shall release the coalbed methane well operator's bond and the coalbed methane well operator shall be relieved of further responsibility for the coalbed methane well; and

(b) To file an objection concerning the proposed manner or method of plugging with the department, within fifteen (15) days after receipt of notice of intent to plug. The department shall consider any objection and may issue an order specifying the manner and method of plugging and reclamation consistent with this section.

(5) All coalbed methane wells shall be plugged and abandoned in accordance with this section. The department shall promulgate regulations specifying the manner and method of plugging vertical and horizontal coalbed methane wells and in so doing, or in entering any order for such plugging and abandonment, shall give consideration to the ability to mine any affected coal seam safely and the protection of any affected coal seam for future mining.

SECTION 6. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) If a coalbed methane well is permitted and drilled within the boundaries of any coal mine for which a permit has been issued or an application for a mine permit or a mine permit modification has been filed but not issued pursuant to KRS Chapter 350, the mine licensee shall have the right to mine through that coalbed methane well and the associated drilling unit in accordance with the provisions of this subsection.

(a) At least one hundred twenty (120) days prior to mining through a coalbed methane well and associated drilling unit, the mine licensee shall notify the review board and operator of its intention to mine through the property. The notice shall be made on a form prescribed by the review board, and shall include a plat showing the location of the drilling unit, the coalbed methane well and associated surface equipment, facilities, infrastructure, and improvements, and the geographic extent of the mining operations to be conducted within the drilling unit. The mine licensee shall also submit an estimated schedule for commencing and completing mining operations within the drilling unit. The review board shall promptly issue a written determination on whether the continued operation of the coalbed methane well will impede, interfere with, or present a possible safety hazard to the mine licensee's planned mining operations. If the review board determines that the coalbed methane well will impede, interfere with, or present a safety hazard to the planned mining operations, concurrently an order shall be issued to the operators, with a copy to the mine licensee, directing the temporary or permanent plugging of the well at the operator's cost and such other action as may be appropriate in the circumstances. Following the issuance of the order, the review board shall promptly issue a mine through certificate to the mine licensee, with a copy to the operator, authorizing the mine licensee to mine-through the coalbed methane well and associated drilling unit.

(b) The mine licensee and all other coalbed interest holders having interests in the coalbed within the drilling unit shall have no duty or obligation to compensate or pay the operator or other interested coalbed methane parties for any causes of action, claims, or damages arising from the suspension or loss of coalbed methane production or the plugging and abandonment of a coalbed methane well and the removal or relocation of any associated facilities, infrastructure, and improvements due to mining through the coalbed methane well and associated drilling unit pursuant to this subsection.

(2) If a mine licensee files an application for a coal mine permit or seeks to amend an existing coal mine permit so as to include a geographical area containing one (1) or more existing coalbed methane wells or any well sites for which drilling permits have been issued or are pending, the mine licensee shall have the right to mine through those coalbed methane wells or into or through a coalbed methane well and the associated drilling units and any well sites for which permits to drilling have been issued or applications for permits to drill have been filed but not issued in accordance with the provisions of this subsection.

(a) At least one hundred eighty (180) days prior to mining into or through one (1) or more drilling units or permitted well sites operated by a common operator, the mine licensee shall notify the review board and the operator of its intention to mine into or through the property. The notice shall be made on a form prescribed by the review board and shall include a plat showing the location of the drilling unit, the coalbed methane well and associated surface equipment, facilities, infrastructure, and improvements, and the geographic extent of the mining operations to be conducted within the drilling unit. The mine licensee shall also submit an estimated schedule for commencing and completing mining operations within the drilling unit.

(b) Within thirty (30) days after receiving the mine licensee's notice pursuant to paragraph (a) of this subsection, the mine licensee and operator shall enter into a confidentiality agreement on a form prescribed by the review board and the operator shall provide, to the extent available, copies of all data and information necessary and appropriate to enable the mine licensee to determine the current value of each drilling unit, well site, and any associated assets described in the mine licensee's notice in accordance with the criteria set forth in paragraph (e) of this subsection. The information shall be in a form prescribed by the review board and shall include, among other things, data, reports, and information relating to current coalbed methane reserve calculations, well completions, historic production and sales results, capital and operating costs, all actual land, legal permitting, survey, title, and any other costs and expenses directly relating to the acquisition, permitting,

development, and operation of each drilling unit and well site, and estimated well plugging and abandonment costs of any existing coalbed methane wells. In addition, the operator shall provide the review board and mine licensee with copies of all agreements and leases, payment division orders and any pooling agreements or pooling orders for each drilling unit and well site, together with a schedule setting forth the name, address, and working interest and net revenue percentages, royalties and overriding royalties, and all other interests and rights of all other interested coalbed methane parties. If the information is not timely filed or is incomplete, the mine licensee may seek an order from the review board directing the operator to comply with the provisions of this subsection.

(c) Within thirty (30) days after receiving the information described in paragraph (b) of this subsection, the mine licensee and operator shall meet and confer at a mutually agreed upon date, time, and place for the purpose of attempting to conclude a mutually acceptable agreement as to the compensation due to the operator for any damage, impairment, or loss resulting from the mine licensee planned mine-through operations to each drilling unit, well site, and any associated assets described in the information provided by the operator. Any compensation agreement between the mine licensee and operator for each drilling unit or well site shall be approved and executed by all other interested coalbed methane parties. The mine licensee and operator shall jointly notify the review board that a compensation agreement has been entered into between the parties and request that the review board issue a mine-through certificate for each drilling unit and well site described in the notice. The notice shall include any terms and conditions set forth in the compensation agreement that the parties have agreed to incorporate in the applicable mine-through certificates. Upon receipt of the executed compensation agreement, the review board shall promptly issue the requested mine-through certificates to the mine licensee, with copies to the operator and all other interested coalbed methane parties. If the parties are unable to reach an agreement, within ten (10) days following the expiration of the thirty (30) day meet and confer period, either party may request a hearing before the review board for the purpose of determining the compensation due the operator and any terms and conditions to be imposed upon the mine licensee's proposed mining operations. Copies of the hearing request shall be sent to all other interested coalbed methane parties.

(d) Within fifteen (15) days of receiving the hearing request, the review board shall schedule a hearing to take place within sixty (60) days and shall notify the mine licensee, the operator and all other interested coalbed methane parties of the date, time, and location of the hearing. At its election, the review board may engage a qualified petroleum engineer for the purpose of conducting an independent evaluation of the compensation to be paid to the operator and all other interested coalbed methane parties in accordance with paragraph (e) of this subsection. The mine licensee and the operator shall each pay one-half (1/2) of the costs and expenses for the petroleum engineer retained by the review board.

(e) The review board shall determine the value of each drilling unit, well site, and all associated assets before and after the mine licensee's planned mine-through operations. In determining the amount of compensation due the operator and all other interested coalbed methane parties, the review board must consider all relevant evidence and information submitted and the review board shall base its decision upon the following criteria and procedures:

1. *Except as otherwise expressly provided in this subsection, all coalbed methane reserve estimates and the valuation of reserves and other assets damaged, impaired, or lost due to the planned mining operations shall be consistent with standard oil and gas industry accounting, engineering, and reserve practices and shall be performed pursuant to the then-current applicable laws, regulations, policies, and guidelines for determining gas reserves for public reporting companies in the United States.*
2. *At the hearing, the mine licensee and operator, on behalf of itself and all other interested coalbed methane parties, shall appear and submit evidence and testimony as to the value of the subject drilling units, well sites, and any associated assets before and after the mine licensee's planned mining operations. The review board shall only consider coalbed methane reserve estimates or valuation determinations made in conformity with subparagraph 1. of this paragraph by a professional petroleum engineer with experience in evaluating coalbed methane reserves and operations. All reserve estimates and any valuation analysis prepared by the mine licensee and operator for use in the review board's hearing shall be effective thirty (30) days prior to the date of the hearing. The reserve estimates and valuation analysis shall be exchanged between the mine licensee and operator and copies of the information shall be provided to the review board and all other interested coalbed methane parties no less than twenty-one (21) days prior to the hearing date. Any coalbed methane reserve estimates or valuation analysis prepared at the review board's request shall be set forth in a written report. Copies of the report prepared for the review board shall be provided to the mine licensee, the operator, and all other interested coalbed methane parties no less than ten (10) days prior to the review board's hearing date.*
3. *All estimates of remaining recoverable coalbed methane reserves immediately before and immediately after the planned mining operations shall consist of proved developed producing or proved developed nonproducing reserves as determined pursuant to this subsection. A drilling unit shall have proved developed producing reserves if the unit has an operating coalbed methane well, which is completed in*

one (1) or more target coal seams and is producing commercial quantities of coalbed methane. The drilling units total proved developed producing reserves before and after the planned mining operations shall be calculated based on the complete coal seams within the unit well. A drilling unit shall have proved developed nonproducing reserves if the unit has a coalbed methane well which is completed in one (1) or more target coal seams and is fully operational and all associated infrastructure such as power, gas gathering, and water management systems required to produce and sell coalbed methane in commercial quantities has been constructed, but the well is not producing coalbed methane in commercial quantities because it either is in the dewatering stage or is not operating due to factors beyond the operator's control. Whether a drilling unit contains proved developed producing reserves or proved developed nonproducing reserves shall be determined based on the status of the coalbed methane well and associated infrastructure sixty (60) days prior to the review board's hearing date.

4. *The net present value of proved developed producing reserves projected immediately before and immediately after the planned mining operations shall be calculated using a discount rate of twelve percent (12%). The net present value of proved developed nonproducing reserves projected immediately before and immediately after the planned mining operations shall be calculated using a discount rate of twenty percent (20%). The valuation analysis shall also project the net present value of all revenues received, if any, by the operator during the period in which the planned mining operations are to be conducted.*

5. *In determining the compensation due the operator and all other interested coalbed methane parties for delay or lost production, if the total projected production of the coalbed methane well is reduced so as not to yield a commercially reasonable return on investment to the operator, but the well is still able to produce coalbed methane in commercial quantities, the projected difference in the net present value of the recoverable reserves before and after mining shall be included as part of the compensation due the operator and all other interested coalbed methane parties.*

6. *In determining the value of the coalbed methane reserves impaired or lost due to the planned mining operations, except as expressly provided herein, no consideration shall be given to undeveloped coalbed methane resources in coal seams which have not been completed in the subject coalbed methane well or which are in coal seams below the total depth of the well bore. If, however, a coal seam in the same field is producing coalbed methane but the coal seam is not completed in the subject coalbed methane well, the operator may submit evidence to the review board for its consideration as to the potential net present value of the resources within the uncompleted seam, but in no event shall the net present value of those resources be discounted at less than thirty percent (30%).*

7. *Except as otherwise provided herein, in determining the value of coalbed methane for purposes of this subsection, the gas price shall be the last published price in the gas market closest to the drilling unit sixty (60) days prior to the review board's hearing date. If however the coalbed methane is sold pursuant to a gas sales agreement or marketing contract in which the gas price is determined based on a published price, subject to any contractual adjustment, in the gas market other than the market closest to the drilling unit, the gas price shall be determined based on the last published price in the gas market referred to in the gas sales agreement or marketing contract, subject to any contractual adjustment set forth therein, sixty (60) days prior to the review board's agreement or marketing contract. The actual sales price received by operator for gas sold sixty (60) days prior to the review board's hearing date shall be used as the gas price in the coalbed methane valuation.*

8. *All capital, operating, and production costs used in the net present value determinations made pursuant to this subsection shall be based on the operator's then current reasonable and verifiable actual costs and expenses. Copies of all relevant and available cost information shall be provided by the operator to the review board and mine licensee as provided in paragraph (b) of this subsection. If actual cost information is not otherwise available, all calculations shall be made using reasonable and customary costs for comparable coalbed methane operations in the Commonwealth and in the surrounding states.*

9. *If the planned mining operations will mine through a coalbed methane well or require the removal, relocation, or suspension of operation of other facilities, infrastructure, or improvements in a drilling unit, the operator and any other interested coalbed methane parties shall be reimbursed for all reasonable actual and direct costs, damages, and expenses to be incurred due to these mining operations; provided, however, that in no event shall any replacement costs and expenses exceed the operator's or any other interested coalbed methane parties' actual costs and expenses for the affected well, facilities, infrastructure, and improvements, as the case may be. The operator and any other interested coalbed methane parties shall not be reimbursed for any general, administrative, or overhead costs and expenses or any other costs and expenses not otherwise allocated to the costs of the subject drilling unit, coalbed methane well and the associated facilities, infrastructure, and improvements. Any amounts due the operator and any other interested coalbed methane parties shall be reduced by the projected then-current market value of such equipment, facilities, and improvements to the extent that it can be salvaged and sold or used in other operations.*

10. If, prior to drilling a coalbed methane well, the mine licensee submits a plan to mine into or through any part of the associated drilling unit or well site for which a drilling permit has been issued or is pending, the operator shall not proceed with drilling a coalbed methane well pending a final decision by the review board with respect to the mine licensee's request for a mine-through certificate. When a mine-through certificate is issued to the mine licensee, the operator and all other interested coalbed methane parties shall be reimbursed for all reasonable costs and verifiable actual land, legal, permitting, surveying, and technical costs and expenses incurred to acquire or lease and maintain the property and obtain any permits, approvals, and other agreements required to drill the coalbed methane well. The operator and all other interested coalbed methane parties shall not be reimbursed for any general, administrative, or overhead costs and expenses or any other costs and expenses not otherwise allocated to the costs to acquire or lease the subject property or permit the coalbed methane well.

(f) At hearing, the review board shall take testimony and evidence from the mine licensee and operator, on behalf of itself and all other interested coalbed methane parties consistent with the provisions in this subsection. Within fifteen (15) days following the hearing, the review board shall issue a written decision to the mine licensee and operator determining the compensation due the operator and each of the other interested coalbed methane parties in the amount of the difference between the value of each drilling unit, well site, and any associated assets before and after the mine licensee's planned mining operations. If the review board determines that the mine licensee's proposed mining operations will result in a loss or taking of all of either the coalbed methane reserves in the coal seam to be mined and all coalbed methane reserves in completed coal seams in the coalbed methane well below the mined coal seam as provided in paragraph (e)5. of this subsection or the entire drilling unit, the operator and other interested coalbed methane parties shall be awarded the full value of the property and assets prior to the proposed mining operations as determined by the review board. The review board's decision shall list the compensation amounts to be paid to the operator and each of the other interested coalbed methane parties for each drilling unit, well site, and any associated assets. The decision shall also set forth any duties or obligations to be performed by the parties, such as the temporary or permanent plugging of any well or the relocation or removal of any surface facilities, to enable the mine licensee to proceed immediately with the planned mining operations.

(g) Within fifteen (15) days of receiving the review board's decision, the mine licensee shall notify the review board and the operator and all other interested parties of its decision to:

1. Accept the review board's decision with respect to one or more of the drilling units, well sites and associated assets and deposit the compensation awarded to the operator and each of the other interested coalbed methane parties for the property;

2. Appeal all or part of the review board's decision as provided in paragraph (j) of this subsection; or

3. Withdraw notice of intent to mine into any of the subject coalbed methane property and assets. If the mine licensee elects to withdraw notice of intent to mine into or through all of the drilling units, well sites, and any associated assets which were the subject of the review board hearing, upon receiving a statement of costs from the operator, the mine licensee shall promptly reimburse the operator for all reasonable out-of-pocket engineering and legal costs and expenses incurred to prepare for and participate in the review board hearing and shall have no further obligations to the operator or any of the other interested coalbed methane parties.

(h) Within fifteen (15) days of receiving the review board's decision, the operator, on behalf of itself and other interested coalbed methane parties, shall notify the review board and the mine licensee whether it will accept the amounts awarded by the review board or file an appeal with the Circuit Court in the county where the drilling unit or well site is located challenging the review board's valuation of any of the property or assets.

(i) If no appeal of the review board's decision is filed by the parties, upon receipt of the compensation due the operator and all other interested coalbed methane parties for each drilling unit and well site selected by the mine licensee for which a mine-through certificate will be issued, the review board shall promptly deliver the awarded compensation to the operator and all other interested coalbed methane parties for the drilling unit and well site and concurrently issue the appropriate mine-through certificate to the mine licensee, with copies to the operator and all other interested coalbed methane parties. If the operator and other coalbed methane parties are awarded either the total net present value of the coalbed methane reserves in coal seams to be mined by the mine licensee and all coalbed methane reserves in coal seams completed in a coalbed methane well below such coal seam as provided in subparagraph 5. of paragraph (e) of subsection (2) of this Section or the total value of the entire drilling unit and associated assets, upon receipt of the compensation, the operator and other interested coalbed methane parties shall, if requested by the mine licensee, assign and transfer to the mine licensee all of their respective unencumbered rights, title, and interests in such property and assets, as the case may be, within the drilling unit on a form to be prescribed by the review board. The review board shall take whatever other action that may be deemed appropriate or necessary in the circumstances.

(j) If either party notifies the review board of a decision to appeal the review board's valuation of any of the subject coalbed methane properties and assets to the Circuit Court, the mine licensee shall deposit with the review board the compensation due the operator and each of the other interested coalbed methane parties for each

drilling unit, well site and any associated assets selected by the mine licensee for which a mine-through certificate will be issued. Upon receipt of the funds from the mine licensee, the review board shall promptly deliver to the operator and the other interested coalbed methane parties one hundred percent (100%) of the awarded compensation for any drilling unit, well site and any associated assets not listed in any notice of appeal and seventy-five percent (75%) of the awarded compensation to the operator and other interested coalbed methane parties for any drilling unit, well site, and any associated assets for which an appeal is to be filed. Concurrently with delivering the awarded compensation to the operator as provided herein, the review board shall issue to the mine licensee, with copies to the operator and all other interested coalbed methane parties, a mine-through certificate for each drilling unit and well site for which compensation has been received. If the review board's decision with respect to any drilling unit is not appealed and the operator and other interested coalbed methane parties are awarded either the total net present value of the coalbed methane reserves in the coal seam to be mined by the mine licensee and all coalbed methane reserves in coal seams completed in a coalbed methane well below that coal seam as provided in paragraph (e)5. of this subsection or the total value of each drilling unit, well site, and any associated assets, upon receipt of the compensation, the operator and other interested coalbed methane parties shall, if requested by the mine licensee, assign and transfer to the mine licensee all of their respective unencumbered rights, title, and interests in that property and assets, as the case may be, within the drilling unit or well site on a form to be prescribed by the review board. The review board shall take whatever other action that may be deemed appropriate or necessary in the circumstances to carry out its decision. All funds deposited with the review board shall be placed in an interest-bearing account pending a final resolution of any appeals.

(k) Within thirty (30) days following the issuance of the review board's decision, the mine licensee or the operator, on behalf of itself and any other interested coalbed methane parties, may file a petition in the Circuit Court of the county in which the drilling unit or well site is located or in the Franklin County Circuit Court disputing the review board's valuation of all or any part of any coalbed methane properties or assets pursuant to this subsection. The parties filing the petition shall name as parties to the action the following: the review board, the mine licensee, all other coal interest holders, the operator, and all other interested coalbed methane parties. Promptly upon receiving notice of the petition, the review board shall deliver any remaining funds deposited by the mine licensee as provided in paragraph (j) of this subsection, together with all interest accrued thereon, to the clerk of the Circuit Court for the county in which the petition is filed and these funds shall be deposited in an interest bearing account pending a decision on the petition. The decision of the Circuit Court shall be made in accordance with the provisions of Section 18 of this Act. If the Circuit Court determines the operator and other interested coalbed methane parties are entitled to greater compensation than the amount awarded by the review board, the mine licensee shall pay the difference to the clerk of the Circuit Court within fifteen (15) days of the court's decision. Upon receipt of the additional funds awarded by the Circuit Court, the clerk shall promptly deliver to the operator and any other interested coalbed methane parties these funds together with all interest accrued thereon. If the Circuit Court determines that the operator is entitled to less compensation than the amount awarded by the review board, the amount of the reduction shall be refunded to the mine licensee together with any interest that accrued thereon. If the escrowed funds are not sufficient to fully reimburse the mine licensee, the operator and all other interested coalbed methane parties having an interest in the subject coalbed methane properties and assets shall promptly pay the mine licensee for the difference between the escrowed funds and the total amount to be reimbursed pursuant to the Circuit Court's order. If the Circuit Court determines that the operator and other interested coalbed methane parties are to receive either the total net present value of the coalbed methane reserves in the coal seam to be mined by the mine licensee and all coalbed methane reserves in coal seams completed in a coalbed methane well below such coal seam as provided in paragraph (e)5. of this subsection or the total value of the entire drilling unit, well site, and any associated assets, which values may be increased or decreased by the Circuit Court, upon receipt of the awarded compensation, the operator and other interested coalbed methane parties shall, if requested by the mine licensee, assign and transfer to the mine licensee all of their respective unencumbered rights, title, and interest in such property and assets, as the case may be, within the drilling unit on a form to be prescribed by the review board.

(l) Subject to obtaining a decision by the Circuit Court with respect to any appeals initiated pursuant to paragraph (k) of this subsection, the operator and all of the other interested coalbed methane parties' acceptance of the compensation awarded by the review board and of the performance of any duties and obligations by the mine licensee as ordered by the review board shall constitute full and complete consideration to the operator and all of the other interested coalbed methane parties for any and all causes of action, claims, damages or losses to each drilling unit, well site, or any associated assets caused by the mine licensee, or any other coal interest holder's subsequent mining operations, regardless of whether these operations were specifically described in the notice provided in this subsection or are conducted pursuant to a new mine plan or amendment to an existing plan on any other coal seam within the drilling unit or well site subject to the review board's decision. The mine licensee and all other coal interest holders shall indemnify and hold harmless the operator and all of the other interested coalbed methane parties from any and all causes of action and claims arising from the mining operations conducted by the mine licensee on, in, or with respect to that property.

(3) If, after the mine licensee files a notice of intention to mine into or through any coalbed methane properties or assets pursuant to subsection (1) or (2) of this section, the mine licensee's coal mining permit or any pending amendment to an existing permit issued pursuant to KRS Chapter 350 is withdrawn, canceled, delayed, or modified so as to exclude all or any part of the geographic area covering any drilling unit or well site described in the mine licensee's notice, the mine licensee shall promptly advise the review board and operator that it is amending its request for a mine-through certificate to exclude any property that is no longer subject to a coal mine permit or a pending mine permit application.

SECTION 7. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) This chapter shall apply to all lands located in the Commonwealth however owned including lands owned or administered by any government or any agency or political subdivision thereof, over which the Commonwealth has jurisdiction under its police power.

(2) The waste of coalbed methane is hereby prohibited. The waste prohibited includes physical waste as that term is generally understood in the oil, gas, and coalbed methane industry, giving consideration to coal mining operations and the safe recovery of coal and includes:

- *(a) The locating, drilling, equipping, operating, or producing of any coalbed methane well or wells drilled, deepened, or reopened in a manner that causes or tends to cause a reduction in the quantity of coalbed methane ultimately recoverable from a pool under prudent and proper operations, or contrary to any provision of, or any order, rule or administrative regulation promulgated or issued under this chapter;*
- *(b) Permitting the migration of coalbed methane from the stratum in which it is found into other strata, thereby ultimately resulting in the loss of recoverable coalbed methane;*
- *(c) The drowning with water of any stratum or part thereof capable of producing coalbed methane in paying quantities, except for secondary recovery purposes, or in hydraulic fracturing or other completion practices;*
- *(d) The unreasonable damage to underground, fresh or mineral water supply, workable coalbeds, or other mineral deposits in the operations for the discovery, development, production, or handling of coalbed methane;*
- *(e) The unnecessary or excessive loss of coalbed methane by spillage or venting or destruction of coalbed methane or its constituents; and*
- *(f) The drilling of more wells than are reasonably required to recover efficiently the maximum amount of coalbed methane from a pool.*

(3) For purposes of this chapter, waste does not include coalbed methane vented or released from any mine area, the degasification of a coal seam for the safe recovery of coal, the plugging of coalbed methane wells for the safe recovery of coal, or the conversion of coalbed methane wells to vent holes for the safe recovery of coal.

(4) The sale or use of coalbed methane from any coalbed methane well unless a permit has been issued as required by Section 8 of this Act, or in violation of the spacing provisions of Section 15 of this Act, shall be prohibited.

SECTION 8. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) It is unlawful for any person to drill, commence, operate, deepen, convert, or stimulate any coalbed methane well, to conduct any horizontal drilling of a coalbed methane well or to convert any existing oil or natural gas well to a coalbed methane well, without first securing from the department a permit pursuant to this chapter. Before any well, borehole, or facility initially used for a coal mining related purpose, such as a vent hole, is converted for the purpose of recovering coalbed methane for sale or use, the operator shall obtain a permit and comply with the provisions of this chapter prior to the time that the well, borehole, or facility is converted or used for the purpose of recovering coalbed methane for sale or use. It is unlawful for any person to drill, deepen, convert, or reopen a coalbed methane well for the production of oil or natural gas or for the injection of water, gas, or other fluids into any oil or natural gas producing formation until the person has obtained a permit from the department for a petroleum or natural gas well pursuant to KRS 353.570. However, no additional permit fee shall be required if the original permit for the coalbed methane well has not expired.

(2) Every permit application filed under this section shall be verified and shall contain the following:

- *(a) A statement that the applicant claims to have a valid real property interest in, or the current legal right to produce coalbed methane from a person claiming a valid real property interest in, the coalbed methane. The statement shall identify with specificity the nature of the real property interest and the document or instrument evidencing that interest or right, including recording information of any recorded document or instrument;*
- *(b) The names and addresses of the coalbed methane well operator and every person or entity whom the applicant must notify under any section of this chapter;*
- *(c) The name and address of each coal interest holder of any workable coalbed which is to be penetrated by a proposed coalbed methane well or within seven hundred fifty (750) horizontal feet or fifty (50) vertical feet of any portion of the proposed coalbed methane well;*
- *(d) The name and addresses of each record oil and gas lessee of, the record oil and gas lessor of, and the operator of all oil and gas formations from the surface to one hundred (100) feet below the deepest penetration of the coalbed methane well on the tract upon which the coalbed methane well is proposed to be located;*

(e) The coalbed methane well name or such other identification as the department may require;

(f) The approximate depth to which the coalbed methane well is to be drilled, deepened or converted, the coal seams including the depth and thickness of each seam, and any other coal seams which will be penetrated by the coalbed methane well;

(g) A description of any means to be used to stimulate the coalbed methane well;

(h) If the proposed coalbed methane well will require casing or tubing, the entire casing program for the coalbed methane well, including the size of each string of pipe, the starting point and depth to which each string is to be set, and the extent to which each string is to be cemented;

(i) If the proposed operation is to convert an existing petroleum or natural gas well, as defined in KRS 353.010(13), or to convert a vertical borehole or facility initially used for a coal mining related purpose, such as a vent hole, to a coalbed methane well, all information required by this section, all formations from which production is anticipated, and any plans to plug any portion of the well;

(j) Except for a vent hole proposed to be converted to a coalbed methane well, if the proposed coalbed methane well will be completed in some but not all coal seams for production, a plan and design for the coalbed methane well which will protect all workable coalbeds which will be penetrated by the coalbed methane well;

(k) If the proposed operations will include horizontal drilling of a coalbed methane well, a description of these operations, including both the vertical and horizontal alignment and extent of the coalbed methane well from the surface to total depth;

(l) Other information as the department may require consistent with this chapter.

(3) Each application for a coalbed methane well permit shall be accompanied by the following:

(a) A permit application fee of three hundred dollars ($300);

(b) A bond in an amount prescribed in Section 24 of this Act; and

(c) A certificate that the applicant's notice requirements of Section 3 of this Act have been satisfied. Certification may be by affidavit of personal service, or the return receipt card, or other postal receipt, for certified mailing.

(4) Prior to the department's issuance of a permit to drill a coalbed methane well, a copy of the written authorization from the mine licensee shall be filed with the application under the following circumstances:

(a) If the proposed coalbed methane well is to penetrate a workable coalbed that is within the permitted area of an active permit or the proposed permitted area of a permit pending before the DSMRE and if the applicant plans to stimulate, complete, or horizontally drill the coalbed methane well in a workable coalbed that is being actively mined by the mine licensee;

(b) If the proposed coalbed methane well is to be located within a surface area permitted under an existing permit, or the proposed permitted area of a permit pending before DSMRE for which no bond release has been obtained; or

(c) If the proposed coalbed methane well is to be located within a surface area permitted under an existing permit by DSMRE for which a partial bond release has been obtained.

If a coalbed methane well permit is issued for a well site located within the boundaries of any coal mine for which a permit has been issued or is pending pursuant to KRS Chapter 350, the permit shall include a provision specifically stating that the permitted coalbed methane well location is in an area for which a coal mine permit has been issued or is pending pursuant to KRS Chapter 350 and is subject to the mine-through right set forth in subsection (1) of Section 6 of this Act.

(5) If a partial bond release for the surface area on which the proposed coalbed methane well is located has been obtained from DSMRE and the applicant is denied written authorization from the mine licensee, the applicant may file an appeal with the review board requesting approval to drill the proposed coalbed methane well. When requesting an appeal, the applicant shall submit a verified statement including the following:

(a) The applicant has met and conferred with or offered to meet and confer with the mine licensee concerning the authorization;

(b) The mine licensee has refused to provide written authorization to disturb the permitted area;

(c) The physical area to be disturbed by the proposed well location and the use of area, including ingress and egress thereto, qualifies as a commercial or industrial postmining land use entitling the mine licensee to a complete bond release for the area to be disturbed by the coalbed methane well operator in accordance with KRS Chapter 350; and

(d) The applicant has agreed to pay the reasonable and actual costs of the permit revision required by DSMRE to affect the incremental bond release for the proposed area to be disturbed by the coalbed methane well operator, not to exceed five thousand dollars ($5,000).

(6) Prior to the issuance of a permit to drill a coalbed methane well, the applicant shall grant assignable subsidence waivers to any mine licensee if requested in an objection filed pursuant to Section 12 of this Act under a requirement to allow present or future mining with planned subsidence under KRS Chapter 353. However, this subsection and any

subsidence waivers shall in no way waive, affect, or impair the ability of the applicant or the applicant's successors or assigns to pursue any remedies for damages to persons, or to improved or tangible property, suffered or incurred as a result of any subsidence caused by the mine licensee or the mine licensee's successors or assigns. This subsection and any subsidence waivers shall indemnify and hold harmless the applicant or the applicant's successors or assigns from any damages to persons or to improved or tangible property caused by subsidence.

(7) If the mine licensee has not exercised his or her mine-through rights, as set forth in subsection (1) or (2) of Section 6 of this Act, in any coal mine before removing any coal or other material or driving any entry or passageway within five hundred (500) horizontal feet of the vertical segment of a coalbed methane well or within fifty (50) vertical feet of the horizontal segment of a coalbed methane well, the mine licensee shall forward simultaneously to the well operator and to the department, by certified mail, return receipt requested, or by registered mail, a copy of the maps and plans required by law to be filed and kept up to date. Maps or plans shall show the mine workings and projected mine workings within five hundred (500) horizontal feet of the coalbed methane well. However, the issuance of any coalbed methane well permit shall not preclude or prevent coal mining outside two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of a coalbed methane well or outside of the workable coalbed in which the horizontal segment of a coalbed methane well is located, unless specified by the department for reasons of mine or well safety. The mine licensee shall not mine within fifty (50) feet of the vertical segment of a coalbed methane well without the written authorization of the coalbed methane well operator. A mine licensee may file a request with the department to mine closer than two hundred (200) feet of the vertical segment of the coalbed methane well. The mine licensee shall forward simultaneously to the well operator and the department, by certified mail, return receipt requested, or by registered mail, a request to mine closer than two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well, which shall be accompanied by the following:

(a) A copy of the maps and plans required by law to be filed and kept up to date, showing on the copy of the map or plan its mine plan workings and projected mine workings beneath the tract of land and within two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well; and

(b) A statement that the applicant has met and conferred with, or offered to met and confer with, the well operator concerning the mine licensee's plan to mine closer than two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well.

The well operator may, within fifteen (15) days of receipt of the documents listed in paragraphs (a) and (b) of this subsection, file specific objections in writing with the department. When objections are filed, the department shall provide a copy of the objections to the mine licensee and fix a time and place for an informal hearing. The hearing shall be held not more than ten (10) days from the end of the fifteen (15) day period. At the hearing, the mine licensee and the well operator, in person or by representative, shall consider the objections and seek agreement on the character and the extent of operations to be conducted within less than two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well. If no agreement can be reached, the department, after administrative hearing conducted in accordance with KRS Chapter 13B, shall make a decision defining what coal, if any, is necessary to be left for the safe protection, use, and operation of the well. The department's decision shall be subject to appeal by either party as provided in this chapter. The department shall keep a complete record of all hearings. The mine licensee shall, every six (6) months, while mining within two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well, file up-to-date maps and plans required by this section, or file new maps and plans complete to date.

(8) The department may deny the issuance of a permit if it determines that the applicant has a documented pattern or practice of substantial violations of the provisions of this chapter and has failed to abate or seek review of the violations. If the department finds that a substantial violation has occurred with respect to existing operations and that the operator has failed to abate or seek review of the violation in the time prescribed, the department may suspend the permit. After a suspension, the operator shall forthwith cease all work being conducted under the permit until the department reinstates the permit. The department shall make a written finding of its determination and may enforce the determination in Circuit Court pursuant to Section 31 of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) When two (2) or more separately owned tracts, or portions thereof, are embraced within a drilling unit, or when there are separately owned interests in all or part of any such drilling unit, the operators or owners of coalbed methane owning the interests may pool their interests for the development and operation of the drilling unit by voluntary agreement. These agreements may be based on the exercise of pooling rights or rights to establish units which are granted in any gas or oil lease, coal lease, coalbed methane lease, or similar instrument.

(2) No voluntary pooling agreement between or among coalbed methane operators or owners shall be held to violate the statutory or common law of the Commonwealth which prohibits monopolies or acts, arrangements, contracts, combinations, or conspiracies in restraint of trade or commerce.

SECTION 10. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) No permit shall be issued to stimulate a coalbed methane well unless the applicant has obtained and filed with the department:

(a) An agreement between all coal interest holders of any workable coalbed within five hundred (500) horizontal

feet and fifty (50) vertical feet above or below the proposed coalbed methane well; and

(b) A statement identifying any workable coalbed that the applicant proposes to stimulate for which any coal interest holder has raised an objection pursuant to subsection (1) of Section 4 of this Act.

(2) The requirement for an agreement to stimulate in this section shall not be construed to impair, abridge, or affect any contractual rights or obligations arising out of a contract, lease, deed, or similar agreement which provides for the development of coalbed methane and stimulation of workable coalbeds between the applicant and a coal interest holder. The existence of any such contract, lease, deed, or similar document shall constitute a waiver of the requirement to file an agreement to stimulate with the department.

(3) An agreement to stimulate shall provide:

(a) That the coal interest holder has been provided with a copy of the permit application to drill a coalbed methane well and a copy of all plats and documents which may accompany the application; and

(b) That the coal interest holder agrees to the stimulation of the workable coalbed as described in the application.

(4) Subject to subsection (5) of Section 4 of this section, in the absence of the applicant submitting the agreement to stimulate as described herein, the applicant may submit a request for a hearing before the review board accompanied by an affidavit, or verified statement, which shall include the following:

(a) A statement that the coal interest holder has refused to sign a written agreement to stimulate the workable coalbed;

(b) A statement detailing the efforts undertaken to obtain the signed agreement to stimulate; and

(c) A statement that the proposed method of stimulation does not involve the use of explosives and will not have a significant adverse affect on the mineability of the workable coalbed, or impair mine safety.

(5) The failure to obtain an agreement to stimulate shall in no way create an inference or presumption that the method of stimulation proposed by the applicant will harm the workable coalbed.

(6) Upon receipt of a request for a hearing and affidavit, or verified statement, as set forth in this section, the department shall forward the application to the review board to consider the proposed stimulation, or if other objections or requests are filed requiring a hearing before the review board, the request may be included for consideration by the review board along with other matters related to the permit application.

(7) Any well operator that stimulates a workable coalbed without an agreement to stimulate from the coal interest holder shall be liable in tort without proof of negligence for any damages proximately caused by the stimulation to the workable coalbed, or any other workable coalbed within five hundred (500) horizontal feet or fifty (50) vertical feet of the coalbed methane well and for damages to any mining equipment proximately caused by the stimulation. The well operator shall be liable for injury, death, or damage to property proximately caused by the stimulation.

SECTION 11. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) The Coalbed Methane Well Review Board is hereby established. The review board shall be composed of five (5) members and shall have the powers and duties specified under this chapter.

(2) The review board shall consist of the commissioner of the Department of Natural Resources, the commissioner of the Department of Mines and Minerals, and the director of the Division of Oil and Gas within the Department of Mines and Minerals, a representative of the oil and gas industry, and a representative of the coal industry. The representatives from the oil and gas industry and the coal industry shall be appointed by the Governor for terms of four (4) years.

(3) The review board shall be, for administrative purposes, attached to the Division of Oil and Gas within the Public Protection and Regulation Cabinet.

SECTION 12. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) The review board shall rule upon:

(a) Objections to proposed coalbed methane wells, their locations, the proposed stimulation, or the proposed completion pursuant to Section 4 of this Act;

(b) Appeals of permit denials arising under subsection (5) of Section 4 of this Act;

(c) Requests for a hearing arising under subsection (3) of Section 5 of this Act ;

(d) Requests for pooling orders pursuant to subsection (1) of Section 16 of this Act;

(e) Requests for the establishment of drilling units for coalbed methane wells;

(f) Requests for the creation of field rules relating to the drilling, completion, and production of coalbed methane wells; and

(g) Requests for the unitization of coalbed methane wells, pools, or fields.

(2) The review board shall meet, hold conferences, and hold hearings at a time and place as designated by the chairman. The chairman may call a meeting of the review board at any time. A majority of the members of the review board shall constitute a quorum for the transaction of any business to come before the review board. All determinations of the review board shall be by majority vote of the quorum present. The commissioner, or his designee within the

department, shall be the chairman of the review board. The review board shall hold a regular monthly meeting. Notice of all meetings of the review board shall be given to each member by the chairman at least ten (10) days in advance of each meeting, unless otherwise agreed by the members.

(3) The review board shall execute, carry out, administer, and enforce the provisions of this chapter in the manner provided in this section.

(4) The review board may:

(a) Take evidence and issue orders concerning the permitting of a coalbed methane well, its location, stimulation, and the completion pursuant to Section 3 of this Act; issue pooling orders in accordance with subsection (1) of Section 16 of this Act; issue orders regarding the establishment of drilling units for coalbed methane wells, field rules relating to the drilling, completion, and production of coalbed methane wells; and requests for the unitization of coalbed methane wells, pools, and fields;

(b) Promulgate and enforce administrative regulations and rules necessary to govern the practice and procedure before the review board;

(c) Make relevant investigations of records and facilities as it deems proper in connection with ruling on any objections to a proposed coalbed methane well, its location, the proposed stimulation, or the proposed completion; and

(d) Issue subpoenas for the attendance and sworn testimony from witnesses and subpoenas duces tecum for the production of any books, records, maps, charts, diagrams, electronic data, and other pertinent documents or data in the review board's own name or at the request of any party.

(5) All final orders issued by the review board pursuant to this chapter shall be effective thirty-one (31) days after the date of the review board order.

SECTION 13. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) The department shall notify the review board of the objection, request, or appeal as set forth in subsection (1) of Section 12 of this Act and schedule a time and place for a hearing.

(2) Notice of the hearing shall be given not less than fifteen (15) days in advance of the hearing to the applicant and all other parties as required under Section 4, 14, or 17 of this Act, as applicable. The hearing of the review board shall be held within thirty (30) days after the filing of the objection, request or appeals or as soon thereafter as the review board can be assembled.

(3) All proceedings before the review board shall be conducted in accordance with KRS Chapter 13B.

(4) With respect to any objection filed pursuant to Section 3 of this Act concerning the proposed coalbed methane well, or its location, stimulation or completion, appeals arising under subsection (5) of Section 4 of this Act, or requests for a hearing arising under this chapter, the review board shall make a determination as to whether a permit shall be issued by the department and any conditions to be included within the permit, which determination and order shall be consistent with the intent and purposes of KRS Chapters 350 and 352 and this chapter, taking into consideration the following factors:

(a) The declaration of public policy and legislative findings as set forth in this chapter;

(b) Whether the proposed coalbed methane well can be drilled safely, taking into consideration the dangers from creeps, squeezes or other disturbances due to the extraction of coal;

(c) The feasibility of moving the proposed drilling location to another location;

(d) Whether any stimulation of the workable coalbed will have a significant adverse affect on the mineability of that workable coalbed or any other workable coalbeds within five hundred (500) horizontal feet or fifty (50) vertical feet of the coalbed methane well or impair mine safety;

(e) Whether the drilling location is above or in close proximity to any mine opening, shaft, entry, travelway, airway, haulageway, drainageway or passageway, or to any proposed extension thereof, any abandoned, operating coal mine or any coal mine already surveyed and platted but not yet being operated;

(f) Whether the proposed drilling can reasonably be done through an existing or planned pillar of coal, or in close proximity to an existing or planned pillar of coal, taking into consideration the surface topography;

(g) The extent to which the proposed drilling location interferes with the safe recovery of coal or coalbed methane;

(h) The extent to which the proposed drilling location will unreasonably interfere with present or future coal mining operations;

(i) The technology and methods proposed for the safe and efficient recovery of coal and coalbed methane;

(j) The practicality of locating the coalbed methane well out of a uniform pattern with other wells;

(k) The surface topography and use; and

(l) Any other factor the review board determines would be considered consistent with KRS Chapters 350 and 352 and this chapter.

(5) Upon consideration of the matters raised at the hearing, the review board shall render a decision based upon the ability

to mine any affected workable coalbed safely and the protection of any workable coalbed for safe future mining, shall enter a written order containing findings of fact and conclusions which address any relevant considerations in subsection (4) of this section, and based thereon shall issue and file with the department a written order directing it to:

(a) Refuse to issue a coalbed methane well permit;

(b) Issue a permit for the proposed coalbed methane well location and any conditions to be included within the permit;

(c) Issue a coalbed methane well permit and any conditions to be included within the permit for an alternate drilling location different from that requested by the applicant; or

(d) Issue a permit authorizing the applicant to stimulate the coalbed methane well in the absence of an agreement of the affected coal interest holders as described in subsection (1) of Section 9 of this Act, as proposed or as modified by the order of the review board.

(6) With respect to any request for a hearing pursuant to Section 5 of this Act by a coalbed interest holder, or any record oil or gas lessor or lessee of any tract being penetrated by a coalbed methane well, to determine whether the well has been abandoned and should be plugged in accordance with this chapter, the review board shall make a determination as to whether the coalbed methane well should be plugged or abandoned, which determination and order shall be consistent with the intent and purposes of KRS Chapters 350 and 352 and this chapter, taking into consideration such of the following factors that it considers applicable in the particular proceeding:

(a) Whether the coalbed methane well has ceased to produce in paying quantities, and no dewatering operations are being conducted, for a period of fifteen (15) consecutive months;

(b) Whether the coalbed methane well is being temporarily shut in by the coalbed methane well operator; and

(c) Any other factor the review board determines should be considered consistent with this section.

(7) Upon consideration of the matters raised at the hearing, the review board shall render a decision based upon whether the coalbed methane well has been abandoned and should be plugged in accordance with this chapter; shall enter a written order containing findings of fact and conclusions which address any relevant consideration in subsection (6) of this section based thereon; and shall issue and file with the department a written order directing the department to:

(a) Require the coalbed methane well operator to plug and abandon the well;

(b) Allow the coalbed methane well operator to continue to operate and produce the well; or

(c) Allow the coalbed methane well operator to continue to shut down the coalbed methane well on a temporary basis.

(8) Upon receipt of the review board order, the department shall promptly undertake the action directed by the review board, provided that all other provisions of this chapter have been complied with.

SECTION 14. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) In order to prevent the waste of coalbed methane or to protect the correlative rights of the operators and owners of coalbed methane, the review board on its own motion or upon application of an operator of coalbed methane shall have the power to establish or modify drilling units, establish field rules, or unitize coalbed methane wells, pools or fields. Drilling units, to the extent reasonably possible, shall be of uniform shape and size for an entire pool or field. Any operator or owner of coalbed methane may apply to the review board for the establishment of field rules, the creation of drilling units for a pool or field, and the unitization of any coalbed methane wells, pools or fields.

(2) With respect to any request for the establishment of field rules, the creation of drilling units for the pool or field, and the unitization of any coalbed methane wells, pools or fields, the review board shall grant or deny the request and issue an order consistent with the intent and purposes of KRS Chapters 350 and 352 and this chapter, taking into consideration the following factors:

(a) The area which may be drained efficiently and economically by the proposed coalbed methane well or wells and the spacing requirements of Section 15 of this Act;

(b) The plan of development for the coal, that drilling units conform to mine development plans, and the need for proper ventilation of any mines or degasification of any affected coal seams;

(c) The nature and character of any coal seam or seams which will be affected by the coalbed methane well or wells;

(d) The surface topography and mineral boundaries of the lands underlaid by the coal seams to be included in the unit;

(e) Evidence relevant to the proper boundary of the drilling unit;

(f) The nature and extent of ownership of each coalbed methane owner or claimant and whether conflicting claims exist;

(g) Whether the applicant for the drilling unit proposes to be the operator of the coalbed methane well or wells within the drilling unit; and if so, whether the applicant has a lease or other agreement from the owners or claimants of a majority interest in the proposed drilling unit;

(h) Whether a disagreement exists among the coalbed methane owners or claimants over the designation of the operator for any coalbed methane wells within the drilling unit; and if so, relevant evidence to determine which operator can properly and efficiently develop the coalbed methane within the drilling unit for the benefit of the majority of the coalbed methane owners;

(i) If more than one person is interested in operating a coalbed methane well within the drilling unit, the estimated cost of submitting by each such person for drilling, completing, operating and marketing the coalbed methane from any proposed coalbed methane well or wells;

(j) Any other available geological or scientific data pertaining to the pool which is proposed to be developed;

(k) The correlative rights of the operators and owners of coalbed methane, so that each operator and owner may obtain his or her just and equitable share of production from the coalbed methane; and

(l) Any other factor the review board determines should be considered consistent with KRS Chapters 350 and 352, and this chapter.

(3) Upon consideration of the matters raised at the hearing, the review board shall render a decision based upon whether to establish or modify a drilling unit, establish or modify field rules or establish or modify the unitization of coalbed methane wells, pools or fields. The review board shall enter a written order containing findings of fact and conclusions which address any relevant considerations in subsection (2) of this section and based thereon shall issue and file with the department a written order:

(a) Establishing and modifying a drilling unit, field rules or unitizing coalbed methane wells, pools or fields;

(b) Refusing to establish or modify a drilling unit, field rules or unitization of coalbed methane wells, pools or fields; or

(c) Attaching certain conditions to the establishment or modification of a drilling unit, field rules, or unitization of coalbed methane wells, pools or fields.

(4) In establishing or modifying a drilling unit for coalbed methane wells, and in order to accommodate the unique characteristics of coalbed methane development, the review board may require that drilling units conform to the mine development plan, if any. If requested by the coal interest holder, well locations and spacing shall correspond with mine operations, including the drilling of multiple coalbed methane wells on each drilling unit.

(5) If an order to establish or modify a drilling unit, field rules or unitization of coalbed methane wells, pools or fields will allow a coalbed methane well to be drilled into or through a workable coalbed, any coal interest holder and any record oil and gas lessor and lessee within the area to be covered by the drilling unit, field rules or unitization of coalbed methane wells, pools or fields may object to the establishment or modification of the drilling unit, field rules or unitization of coalbed methane wells, pools or fields.

(6) The review board may continue a hearing to allow for further investigation and the gathering and taking of additional data and evidence. If at any time during a hearing there is not sufficient evidence for the review board to determine field boundaries, or drilling unit size or shape, the review board may enter a temporary order establishing provisional drilling units, and field boundaries for the orderly development of the pool or field, pending receipt of the information necessary to determine the ultimate pool or field boundaries, and spacing of wells for the pool or field. Upon additional findings of fact, the boundaries of a pool or field and drilling units for the pool or field may be modified by the review board.

(7) Unless otherwise provided for by the review board, after an application for a hearing to establish or modify drilling units or pool boundaries has been filed, no additional wells shall be permitted in the pool or field until the review board's order establishing or modifying the pool or field or unit has been entered.

(8) After the review board issues a field or pool spacing order which creates drilling units or a pattern of drilling units for a pool or field, should an operator or owner of coalbed methane apply for a permit or otherwise indicate a desire to drill a coalbed methane well outside of such drilling units or pattern of drilling units and thereby potentially extend the pool or field, the review board may, on its own motion or the motion of any interested person, require that the coalbed methane well be located and drilled in compliance with the provisions of the order affecting the pool or field.

SECTION 15. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

Except as provided in Section 14 of this Act, or pursuant to voluntary pooling, no permit shall be issued for a coalbed methane well unless the proposed location of a vertical well shall be at least seven hundred fifty (750) feet horizontally from the nearest mineral boundary upon which the well is to be drilled and the proposed location shall be at least one thousand five hundred (1,500) feet horizontally from the nearest coalbed methane well, unless the department orders that a different spacing distance shall apply. Spacing distances for coalbed methane horizontal wells shall be separately established by the department pursuant to this subchapter.

SECTION 16. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Whenever an applicant proposes to drill, deepen, convert, or reopen a well for purposes of production of coalbed methane and the ownership of the right to produce coalbed methane is in dispute, the department shall refer the application to the review board for its consideration and the issuance of appropriate pooling orders in accordance with Section 17 of this Act. Upon the issuance of a pooling order by the review board, the department shall issue a permit to

drill, deepen, convert, or reopen the well and require the development and operation of all pooled tracts and interests as a single leasehold estate in accordance with the pooling order.

(2) No pooling as permitted by this section shall be ordered except:

  (a) When an application has been filed to drill, deepen, or reopen a well within the distance limitations prescribed in Section 15 of this Act; or

  (b) A request for pooling has been made pursuant to this section or Section 17 of this Act.

(3) No pooling, as permitted by this section, shall be ordered with respect to any tract or portion thereof upon which a well is drilled, deepened, or converted or reopened:

  (a) Unless the pooling was requested prior to the commencement of the drilling, deepening, converting, or reopening of the coalbed methane well; and

  (b) Unless the request, if made by the owner of an operating interest who elects to participate in the risk and cost of the drilling, deepening, converting, or reopening of the coalbed methane well, is accompanied by a bond or other security satisfactory to and in an amount set by the review board for the payment of such owner's share of the cost of drilling, deepening, converting, or reopening the well.

(4) Production from any well which is ordered pooled pursuant to this section shall be deemed for all purposes to have been so produced from each tract or portion thereof included in the pool in proportion to the amounts established in the pooling order.

SECTION 17. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) The person requesting a pooling order shall provide to the department a list of all persons reasonably known to own an oil or gas interest and all coal interest holders, in any tract upon which the coalbed methane well will be located from the surface to a depth of one hundred (100) feet below the base of the deepest coal seam to be penetrated. A pooling order shall be made only after the department provides notice to all persons reasonably known to own an oil or gas interest and all coal interest holders in any tract upon which the well will be located and any tract or portion thereof proposed to be pooled in any drilling unit, from the surface to a depth of one hundred (100) feet below the base of the deepest coal seam to be penetrated, after a hearing has been held. After filing an application for a pooling order under subsection (1) of Section 16 of this Act, where unknown or nonlocatable owners exist, or at the request of the permit applicant or person requesting a pooling order, the permit applicant shall publish, at least twenty (20) days prior to the hearing on the application for the pooling order, one (1) notice in the newspaper of the largest circulation in each county in which any tract, or portion thereof, proposed to be pooled is located. The notice shall:

  (a) State that an application for a pooling order is being filed with the review board;

  (b) Describe any tract, or portion thereof, proposed to be pooled;

  (c) In the case of an unknown owner, identify the name of the last known owner;

  (d) In the case of a nonlocatable owner, identify the owner and the owner's last known address; and

  (e) State that any party claiming an interest in any tract, or portion thereof, proposed to be pooled should contact the permit applicant at the published address and provide a copy of the notification to the review board within twenty (20) days of the date of the publication.

(2) The review board shall grant or deny the request for a pooling order and issue an order consistent with the intent and purposes of KRS Chapters 350 and 352 and this chapter, taking into consideration the following factors:

  (a) The area which may be drained efficiently and economically by the proposed coalbed methane well or wells and the spacing requirements of Section 15 of this Act;

  (b) The plan of development of the coal that drilling units conform to mine development plans and the need for proper ventilation of any mines or degasification of any affected coal seams;

  (c) The nature and character of any coal seam or seams which will be affected by the proposed coalbed methane well or wells;

  (d) The surface topography and mineral boundaries of the lands underlaid by the coal seams to be included in the unit;

  (e) Evidence relevant to the proper boundary of the drilling unit;

  (f) The nature and extent of ownership of each coalbed methane owner or claimant and whether conflicting claims exist;

  (g) Whether the applicant for the drilling unit proposes to be the operator of the coalbed methane well or wells within the drilling unit; and if so, whether the applicant has a lease or other agreement from the owners or claimants of a majority interest in the proposed drilling unit;

  (h) Whether a disagreement exists among the coalbed methane owners or claimants over the designation of the operator for any coalbed methane wells within the unit, and if so, relevant evidence to determine which operator can properly and efficiently develop the coalbed methane within the unit for the benefit of the majority of the coalbed methane owners;

(i) If more than one person is interested in operating a coalbed methane well within the unit, the estimated cost submitted by each such person for drilling, completing, operating, and marketing the coalbed methane from any proposed coalbed methane well or wells;

(j) Any other available geological or scientific data pertaining to the pool which is proposed to be developed;

(k) The correlative rights of the operators and owners of the coalbed methane, so that each operator and owner may obtain his or her just and equitable share of production from the coalbed methane; and

(l) Any other factor the review board determines should be considered consistent with KRS Chapters 350 and 352 and this chapter.

(3) Upon consideration of the matters raised at the hearing, the review board shall render a decision based upon whether to grant a pooling order, and shall enter a written order containing findings of fact and conclusions which address any relevant considerations in subsection (2) of this section and based thereon shall issue and file with the department a written order granting the pooling order with any applicable conditions.

(4) A pooling order shall authorize the drilling, deepening, or reopening, and the operation of a well for the production of coalbed methane on the tracts or portions thereof pooled; shall designate the operator to drill and operate the well; shall prescribe the time and manner in which all owners of working interests in the pooled tracts or portions thereof may elect to participate therein; shall provide that all reasonable costs and expenses of drilling, deepening, converting or reopening, and the completing, operating, plugging, and abandoning the well shall be borne, and all production from the well shall be shared, by all owners of working interests in proportion to the net mineral acres in the pooled tracts owned or under lease to each owner; and shall make provision for the payment of the reasonable and actual cost thereof, including a reasonable charge for supervision, by all those who elect to participate therein.

(5) A pooling order shall establish a procedure for the owner who claims a working interest and who does not decide to become a participating working interest owner to elect to either:

(a) Surrender, by means of sale or lease, the interest to a participating working interest owner on a reasonable basis and for a reasonable consideration, which if not agreed upon shall be one-eighth (1/8) of the production attributable to the well; or

(b) Share in the operation of the well as a nonparticipating working interest owner on a carried basis after the proceeds allocable to his or her share equal to two hundred percent (200%) of the share of the costs allocable to his or her interest.

(6) A coalbed methane owner or claimant whose identity and location remain unknown at the conclusion of the hearing concerning the entry of a pooling order for which public notice was given and whose interest is pooled pursuant to subsection (1) of Section 16 of this Act shall be deemed to have elected to lease the interest to the coalbed methane operator, exclusive of one-eighth (1/8) of the production attributable to the unleased interest, and shall not be entitled to make the election established in subsection (5) of this section.

(7) Except as provided in this section, a coalbed methane owner who does not make an election under the pooling order within thirty (30) days of the entry of the order shall be deemed to have leased the coalbed methane interest to the coalbed methane well operator in the manner established in subsection (6) of this section.

(8) A person whose interest is subject to a coalbed methane lease or other agreement which grants to another the right to operate or conduct operations shall not own an operating interest for the purposes of this section.

(9) A certified copy of any pooling order entered under this section shall be entitled to be recorded in the office of the county clerk of the county or counties in which all or any portion of the pooled tract is located, and the record of the order, from the time of lodging the order for record, shall be notice of the order to all persons.

(10) Each pooling order for a coalbed methane well issued pursuant to subsection (1) of Section 16 of this Act shall provide for the establishment of an interest-bearing escrow account to be maintained by the department. The escrow account shall receive deposits and hold payment for costs and proceeds attributable to the conflicting interests as follows:

(a) Each participating working interest owner, except for the unit operator, shall deposit in the escrow account the owner's proportionate share of the costs allocable to the ownership interest claimed by each participating working interest owner as set forth in the pooling order; and

(b) The unit operator shall collect all proceeds from the sale or use of coalbed methane and deposit in the escrow account all proceeds attributable to the conflicting interests of lessors, lessees, or royalty owners and all proceeds in the excess of the recover of all capital costs and expenses and all ongoing operational expenses including reasonable overhead costs and operating fees attributable to conflicting working interests.

(11) The department shall order payment of principal and accrued interest from the escrow account to all legally entitled entities within thirty (30) days of receipt by the department of notification of the final legal determination of entitlement or upon agreement of all entities claiming an ownership interest in the coalbed methane. Upon the department's final determination:

(a) Each legally entitled participating working interest owner shall receive a proportionate share of the proceeds attributable to the conflicting ownership interest;

(b) Each legally entitled nonparticipating working interest owner shall receive a proportionate share of the

proceeds attributable to the conflicting ownership interest, less the cost of being carried as a nonparticipating working interest owner as determined by the election of the person under the applicable pooling order;

(c) Each person leasing or deemed to have leased its coalbed methane ownership interest to the unit operator shall receive a share of the royalty proceeds as set out in the applicable pooling order attributable to the conflicting interests of the lessees;

(d) The unit operator shall receive the costs contributed to the escrow account by each legally entitled participating working interest owner, but only to the extent that the costs and expenses described in subsection (10)(b) of this section have not been recouped from production proceeds;

(e) Each participating working interest owner who is determined not to hold an ownership interest shall receive a refund of all amounts placed in escrow pursuant to subsection (10)(a) of this section plus interest earned thereon; and

(f) All amounts remaining in escrow, after distribution of amounts described in paragraphs (a), (b), (c), (d), and (e) of this subsection, shall be distributed to the legally entitled participating working interest owners in proportion to their interests.

(12) The department shall promulgate administrative regulations for the administration and protection of funds delivered to the escrow accounts.

SECTION 18. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Any person aggrieved by any order issued by the review board under this chapter shall have the right to bring a civil action for review of the order by filing a complaint in the Circuit Court of the county in which the premises or any portion thereof is located as established by the order, or in Franklin Circuit Court.

(2) The civil action shall be brought within thirty (30) days after the order is issued, and in the event no civil action is filed within the thirty (30) day period, the order shall be final.

(3) In any civil action the burden of proof shall be upon the party challenging the order. The order shall be deemed prima facie valid. Any party to the civil action may offer evidence for any part of the record of the hearing which resulted in the order, and any other relevant evidence.

(4) In any civil action no new evidence may be introduced, except as to fraud or misconduct of some person engaged in the hearing before the review board. New evidence may be introduced if, upon motion and for good cause shown, the court determines that the interest of justice will be better served by the introduction of new evidence. The court, sitting without a jury, shall hear the cause upon the record before it. The court shall dispose of the civil action in a summary manner, being limited to determining whether or not: the review board acted without or in excess of its powers; the order was procured by fraud; the order is not in conformity with the provisions of this chapter; the order is clearly erroneous on the basis of reliable, probative, and material evidence contained in the whole record; the order is arbitrary, capricious, characterized by abuse of discretion, or clearly unwarranted exercise of discretion. The court shall enter its findings in the order book as a judgment of the court, and the judgment shall have the effect and be enforceable the same as any other judgment of the court in civil cases.

(5) The practice, pleading, and proceedings in the civil action shall be in accordance with the Rules of Civil Procedure.

(6) During the pendency of the civil action, the court may stay the order until it shall enter its decree. The court shall have jurisdiction to enter a decree affirming or setting aside the order, or remand the cause with directions to modify the order to conform to the provisions of this chapter. Appeals may be taken by any party to the suit in the same manner and to the same extent as in other civil actions.

SECTION 19. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) A coalbed methane well penetrating one (1) or more workable coalbeds shall be drilled in a manner that will exclude, if practicable, all coalbed methane or coalbed methane pressure from the workable coalbed, except as is found in the workable coalbed itself. Each string of casing that is run through a workable coal bed shall be seated at least thirty (30) feet below the workable coalbed in twenty (20) feet of cement, mud, clay, or other nonporous material that will make an effective seal. If a second workable coalbed is found less than thirty (30) feet below the first workable coalbed, the casing shall be seated and mudded off as above provided at least thirty (30) feet below the second workable coalbed. If gas is found between the two (2) workable coalbeds, it shall be treated as prescribed by this chapter. After any such string of casing has been properly seated, drilling may proceed immediately.

(2) When a coalbed methane well is drilled through the horizon of a workable coalbed where the coal has been removed, the hole shall be drilled at least thirty (30) feet below the workable coalbed, and shall be of a size sufficient to permit the placing of a liner, which shall start not less than twenty (20) feet beneath the horizon of the workable coalbed and extend not less than twenty (20) feet above it. The largest sized casing to be used in the well shall be centrally placed within this liner. The liner may be welded to the casing to be used, and the space between the liner and the casing shall be filled with cement as the liner and casing are lowered into the hole. Cement shall be placed in the bottom of the hole to a depth of twenty (20) feet to form a sealed seat for both liner and casing. Following the setting of the liner, drilling may proceed. If it is necessary to drill through the horizon of two (2) or more workable coalbeds where the coal has been removed, the liner shall be started not less than twenty (20) feet below the lowest horizon penetrated and shall extend to a point not less than twenty (20) feet above the highest horizon penetrated.

SECTION 20. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

If any coalbed methane well produces coalbed methane, all coal-protecting strings of casing shall remain in place during the life of the well. The top ends of all the strings shall be provided with casing heads or other suitable devices that will allow the free passage of coalbed methane and prevent filling the annular spaces outside the casing with dirt or debris.

SECTION 21. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) No person shall abandon or remove casings from any coalbed methane well, either dry or producing, without first plugging the well in a secure manner approved by the department and consistent with administrative regulations. Upon the department's plugging of an abandoned coalbed methane well in accordance with the requirements of this subsection, the department may sell all equipment removed from that well. The department shall conduct the sale by sealed bid, or include the sale as part of compensation in the contract for the plugging of the well. Proceeds from the sale shall be deposited into the coalbed methane well plugging fund, established in subsection (3) of Section 24 of this Act.

(2) Not less than thirty (30) days before advertising for bids for the plugging of coalbed methane wells, the department shall publish, in a newspaper of general circulation, and in locally published newspapers serving the areas in which the wells proposed for plugging are located, notices of all wells on which there is salvageable equipment, described as to farm name, Carter Coordinate, and state plane coordinate location, for which the department intends to see bids for plugging. If a person other than the operator claims an interest in the equipment of a well proposed for plugging, the person shall provide documentation of that interest to the department within thirty (30) days of the date of publication of the notice of the department's intent to plug a well. Prior to the department's advertising of bids for the plugging of a well, the department shall release the well's equipment to the person deemed to have an interest in that equipment. It shall be the duty of the interest holder to remove the equipment before the well is plugged. If documentation as to an asserted interest is not provided to the department in the manner described in this subsection or if a person deemed to be an interest holder fails to remove the equipment before a well is plugged, the department may sell or otherwise dispose of the equipment in accordance with this subsection.

(3) If a person fails to comply with subsection (1) of this section, any person lawfully in possession of land adjacent to the coalbed methane well or the department may enter on the land upon which the well is located and plug the well in the manner provided in subsection (1) of this section, and may maintain a civil action against the owner or person abandoning the well, jointly or severally, to recover the coast of plugging the well. This subsection shall not apply to persons owning the land on which the well is situated, and drilled by other persons.

SECTION 22. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) The department shall exercise supervision over the drilling, casing, plugging, and filling of all coalbed methane wells. The department shall exercise supervision over all mining operations in close proximity to any well. The department shall have access to the records and properties of coal, oil, gas and coalbed methane operators when necessary.

(2) The department may receive, or may file on its own motion, formal complaints that drilling or mining operations are being conducted contrary to the provisions of this chapter or to the order of the department or review board, and shall hold administrative hearings on the complaints, in accordance with KRS Chapter 13B. Following a hearing, the department shall issue a final order necessary to secure the proper administration of this chapter.

SECTION 23. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) The department is hereby authorized to adopt all rules, administrative regulations, and amendments to implement the provisions of this chapter. All rules, administrative regulations, and amendments promulgated under this chapter shall be promulgated by the department after notice and a hearing. At all hearings held to consider any rules, administrative regulations, or amendments thereto, any interested person shall be entitled to be heard.

(2) All hearings shall be held at a time and place as is specified by the department according to rules and regulations promulgated under this chapter. A written record of each hearing shall be kept; however, if not at variance with KRS 61.870 to 61.884, the keeping of a record may be waived by all parties who participate therein. All interested persons shall be entitled to be heard at all hearings conducted under this chapter.

(3) Operators shall submit annual production information for each coalbed methane well on a form prescribed by the department.

SECTION 24. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) When any person submits to the department an application for a permit to drill a coalbed methane well, or to reopen, deepen, or temporarily abandon any coalbed methane well which is not covered by a surety bond, the department shall, except as provided in this section, require from the well operator a bond in the sum of five thousand dollars ($5,000). The bonds shall be made in favor of the Department of Natural Resources, conditioned that the wells upon abandonment shall be plugged in accordance with the administrative regulations and that all records required by the department be filed as specified. All bonds shall remain in effect until the plugging of the well is approved by the department, or the bond is released by the department. Any well operator in lieu of the bond may file with the department a blanket bond in a sum of one hundred thousand dollars ($100,000), covering all coalbed methane wells drilled or to be drilled in the Commonwealth by the principal in the bond, and the acceptance and approval by the department of the blanket bond shall be in full compliance with the above provision requiring an individual well bond.

A deposit in cash or a bank-issued irrevocable letter of credit may serve in lieu of either of the individual well or blanket bonds. A certificate of deposit, the principal of which is pledged in lieu of a bond and whose interest is payable to the party making the pledge, may also be accepted by the department. If an operator is required to post individual well bonds exceeding a total of five thousand dollars ($5,000) or elects to post a blanket bond, the certificate of deposit shall be accepted by the department in lieu of that portion of the amount of the bonds exceeding five thousand dollars ($5,000). The bond or bonds referred to in this section shall be executed by the well operator as principal and, if a surety bond, by a corporate surety authorized to do business in the Commonwealth. A deposit in cash shall serve in lieu of either of the above bonds; all cash bonds accepted by the department shall be deposited into an interest-bearing account, with the interest thereon payable to the special agency account known as the coalbed methane well plugging fund, created in subsection (3) of this section, to be used in accordance with the purposes described therein.

(2) A successor to the well operator shall post bond, pay a twenty-five dollar ($25) fee per well to the department, and notify the department in writing in advance of commencing use or operations of a well or wells. The successor shall assume the obligations of this chapter as to a particular well or wells and relieve the original permittee of responsibility under this chapter with respect to the well or wells. It shall be the responsibility of the selling operator to require the successor operator to post bond before use or operation is commenced by the successor and relief of responsibility under this chapter is granted to the original permittee.

(3) All sums received through the forfeiture of bonds shall be placed in the State Treasury and credited to a special agency account to be designated as the coalbed methane well plugging fund, which shall be in an interest-bearing account with the interest thereon payable to the fund. This fund shall be available to the department and shall be expended for the plugging of any abandoned coalbed methane wells coming within the authority of the department pursuant to this chapter. The plugging of any coalbed methane wells pursuant to this subsection shall not be construed to relieve the operator or any other person from civil or criminal liability which would exist except for the plugging. Any unencumbered and any unexpended balance of this fund remaining at the end of any fiscal year shall not lapse but shall be carried forward for the purpose of the fund until expended or until appropriated by subsequent legislative action.

SECTION 25. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Any person to whom a permit is issued pursuant to this chapter shall file, within ninety (90) days after termination of operations conducted under the permit, with the department for transmittal to the Kentucky Geological Survey on forms to be furnished by the department the following information relating to the well:

(a) A copy of the driller's log certified to be true and accurate;

(b) The depth and thickness of all water zones encountered and logged;

(c) The depth of all showing of oil, gas, or coalbed methane;

(d) The depth and thickness of all coal seams encountered; and

(e) A true copy of all electrical surveys and similar logs and surveys taken. If the person to whom the permit is issued obtains a copy of the electrical survey or similar log or survey in electronic form, the operator shall submit the electrical survey or similar log in electronic form if requested by the department.

(2) Upon request by the department, any person to whom a permit is issued shall save for the Kentucky Geological Survey samples of all cuttings from the well drilled or deepened pursuant to the permit for a period of ninety (90) days after completion thereof.

(3) Upon request by any person furnishing information under this section, the information shall be kept confidential, for a period of one (1) year after the information is furnished by such person.

(4) This section shall not apply to wells drilled or deepened as geological or structure test holes.

SECTION 26. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

All applicants for coalbed methane well shall comply with all of the requirements of KRS 353.5901 and 353.595.

SECTION 27. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Each coalbed methane well permit issued under this chapter shall expire one (1) year after the date issued, unless the drilling, deepening, or reopening of a coalbed methane well is commenced prior to the expiration of the one (1) year period. However, the permit term shall be extended by one (1) year if, prior to the expiration date, the permit applicant:

(a) Notifies the department in writing of the applicant's request for an extension;

(b) Notifies all coal interest holders originally entitled to receive a copy of the plat under Section 3 of this Act;

(c) Submits an affidavit, or verified statement, stating that the information in the original permit application is still correct; and

(d) Submits a fee for the extension in an amount equal to the permit fee required by Section 8 of this Act.

(2) The extension of the permit term pursuant to subsection (1) of this section shall not create a right to object to the coalbed methane well location under Section 4 of this Act nor to mediation under KRS 353.5901.

SECTION 28. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

In any case where title to subsurface minerals has been severed in such a way that title to natural gas underlying the tract and title to coal underlying the tract are in different persons, it shall be an affirmative defense to any action for willful trespass arising from the drilling, development, operation, and production of coalbed methane from any coal seam or gob area underlying the tract, that the operator of the coalbed methane well permitted, drilled, completed, and produced the coalbed methane well under color of title of any instrument, deed, or lease for oil and gas purposes from the gas owner, or any instrument, deed, or lease for coal mining purposes from the coal owner.

SECTION 29. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Whenever it appears that a person is violating or threatening to violate any provision of this chapter, or any rule, administrative regulation or order promulgated or issued under this chapter, the department may bring suit against the person in the Circuit Court of the county where the violation occurred or is threatened, or in the county in which the defendant resides or in which any defendant resides if there is more than one defendant, to restrain the person from continuing the violation or from carrying out the threatened violation. In the suit, the court shall have jurisdiction to grant without bond or other undertaking the prohibitory or mandatory injunction as the facts may warrant, including a temporary restraining order or injunction.

(2) Whenever it appears that any person is violating any provision of this subchapter, or any rule, administrative regulation or order promulgated or issued hereunder, the Attorney General or any person who is adversely affected by the violation may bring suit to restrain the violation in any court in which the department might have brought suit. The department shall be made a party defendant in the suit in addition to the person allegedly violating a provision or any rule, administrative regulation, or order promulgated or issued under this chapter.

SECTION 30. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Nothing in this chapter shall be construed as affecting, in any way, the right of any person to enforce or protect, under applicable law, his or her interest in water resources affected by a coalbed methane well or related operations.

(2) The operator of a coalbed methane well shall replace the water supply of an owner of an interest in real property who obtains all or part of his or her supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source where the supply has been affected by contamination, diminution, or interruption proximately resulting from the operation of a coalbed methane well.

SECTION 31. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Any person who violates any provision of this chapter shall be subject to a fine of not more than one thousand dollars ($1,000) or imprisonment for a term not exceeding one hundred eighty (180) days, or both.

(2) Any person who continues to violate any provision of this chapter, or any administrative regulation or order promulgated or issued under this chapter after being notified in writing of the violation by the department, shall be subject to a fine of not more than one thousand dollars ($1,000) or imprisonment for a term not exceeding one hundred eighty (180) days, or both.

(3) Any person who does any of the following for the purpose of evading or violating this chapter or any administrative regulation or order promulgated or issued under this chapter shall be subject to a fine of not more than one thousand dollars ($1,000) or imprisonment for a term not exceeding one hundred and eighty (180) days, or both:

- *(a) Makes or causes to be made a false entry or statement in a report, record, account, or memorandum, required by this chapter, or by any administrative regulation or order under this chapter;*
- *(b) Omits or causes to be omitted from a report, record, account, or memorandum full, true, and correct entries and information as required by this chapter, or by any administrative regulation or order under this chapter; or*
- *(c) Removes from this Commonwealth or destroys, mutilates, alters, or falsifies a report, record, account, or memorandum required by this chapter, or by any administrative regulation or order.*

(4) Any person who knowingly aids or abets any other person in the violation of any provision of this chapter, or any administrative regulation or order promulgated or issued under this chapter, shall be subject to the same penalty as that prescribed in this section for the violation by the other person.

SECTION 32. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Nothing in this chapter shall be construed to preclude any coal interest holder from removing support of the surface and any structure or facilities thereon and other strata as such rights may exist in any severance deed or other contract.

(2) Nothing in this chapter is intended to or shall be construed as superseding, impairing, abridging, or affecting any specific contractual rights or obligations now or hereafter existing between the respective owners of oil, gas, or other minerals, or any interests therein.

(3) Nothing in this chapter shall be construed to, or be used or interpreted to, determine ownership.

(4) Nothing in this chapter shall be construed to, or be used or interpreted to, apply to any well otherwise permitted, approved, or regulated under KRS Chapter 353 except for the wells that are to be converted to or operated as coalbed methane wells.

(5) Nothing in this chapter shall be construed to authorize any limitation of production of coalbed methane from any coalbed methane well, lease, drilling unit, pool, field, or property to prevent or control economic waste or to limit

production to market demand.

(6) This chapter shall be liberally construed so as to effectuate the declaration of public policy set forth in Section 1 of this Act.

(7) Coalbed methane wells shall not be subject to the provisions of KRS Chapter 353, except as expressly provided in this chapter.

The Committee Substitute to **HB 577** is as follows:

HB 577, AN ACT relating to coalbed methane development and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 349 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly hereby declares:

(a) The venting of coalbed methane and degasification of coal seams is approved by the Commonwealth for the purpose of ensuring the safe recovery of coal;

(b) The positive economic impact of coal mining to the Commonwealth is currently greater than that of coalbed methane production;

(c) Coalbed methane is not found in conventional gas reservoirs;

(d) Any development of coalbed methane should be undertaken in a way to protect and preserve the environment and protect and preserve the coal for future safe mining and the maximum recovery of coal;

(e) Commercial recovery and marketing of coalbed methane should be facilitated whenever appropriate to meet the energy needs of both the Commonwealth and the United States;

(f) The extraction of methane from mineable coal enhances mine safety, promotes environmental goals and objectives, and conserves an important energy resource; and

(g) The Energy Policy Act of 1992 was enacted, in part, to encourage coalbed methane development and the Commonwealth should enact legislation to carry out the purpose of that Act.

(2) Therefore, in order to encourage and ensure the fullest practical safe recovery of both coal and coalbed methane, consistent with the above declarations and findings, this chapter is established to:

(a) Authorize coalbed methane well permits;

(b) Regulate the design of coalbed methane wells and recovery techniques;

(c) Authorize coalbed methane well drilling units and pooling interests therein;

(d) Establish field rules; and

(e) Provide a process to enable coalbed methane well operators and coalbed methane owners to proceed with the orderly development and production of coalbed methane pending the judicial resolution of issues relating to coalbed methane ownership.

(3) Notwithstanding subsections (1) and (2) of this section, the General Assembly expressly finds that establishing an orderly process to permit and produce coalbed methane shall in no way be construed to create an inference or presumption as to the ownership of coalbed methane in any judicial or administrative proceeding, or be construed to or be used or interpreted to apply to any well otherwise permitted, approved, or regulated under KRS Chapter 353, except for any wells that are to be permitted, converted to, or operated as coalbed methane wells.

(4) It is hereby declared to be the public policy of this Commonwealth and in the public interest to:

(a) Safeguard, preserve, and protect coal seams for safe mining; facilitate the expeditious, safe evacuation of coalbed methane from the coalbeds of this state; and maintain the ability and right of coal operators at all times to vent coalbed methane from mine areas for the safe recovery of coal;

(b) Foster, encourage, and promote the commercial development of the Commonwealth's coalbed methane by establishing procedures for issuing permits and forming drilling units for coalbed methane wells without adversely affecting the safety of mining or the mineability of coal seams;

(c) Safeguard, protect, and enforce the correlative rights of coalbed methane operators and coalbed methane owners in a pool of coalbed methane so that each operator and owner may obtain his or her just and equitable share of production from coalbed methane;

(d) Create a state permitting procedure and authority to provide for and facilitate coalbed methane development as encouraged by the Energy Policy Act of 1992; and

(e) Seek the deletion of the Commonwealth of Kentucky from the list of affected states by the Secretary of the United States Department of Interior as provided for in the Energy Policy Act of 1992.

SECTION 2. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

As used in this chapter:

(1) "Abandoned" when used in connection with a well or hole means a well or hole which has never been used, or which, in the opinion of the department, will no longer be used for the production of coalbed methane or the injection or disposal of fluid therein;

(2) "Coal interest holder" means every record coal owner, record coal lessee, mine licensee as defined in KRS 352.010(1)(r) and mine permittee as defined in KRS 350.010(21) whose coalbed is penetrated, or proposed to be penetrated, by a coalbed methane well;

(3) "Coalbed" or "coal seam" means a seam of coal, whether workable or unworkable;

(4) "Coalbed methane" means gas produced from a reservoir found in a coalbed, a mined-out area, or gob;

(5) "Coalbed methane well" means any well drilled, deepened, converted, or reopened for the purpose of capturing coalbed methane for sale or use. Any well initially used for a coal mining-related purpose, such as a vent well, but which is subsequently used for the purpose of recovering coalbed methane for sale or use, shall then be deemed to be a coalbed methane well and shall comply with the provisions of this chapter at the time that the well is converted or used for the purpose of recovering coalbed methane for sale or use;

(6) "Commissioner" means the commissioner of the Department of Natural Resources;

(7) "Correlative rights" means the reasonable opportunity of each person entitled to recover, without waste, the coalbed methane in and under his or her tract or tracts, or the equivalent thereof;

(8) "Department" means the Department of Natural Resources;

(9) "Director" means the director of oil and gas conservation as established in KRS 353.530;

(10) "Drilling unit" means the maximum area in a pool which may be drained efficiently by one (1) well so as to produce the reasonable maximum recoverable coalbed methane in the area. Where the department has provided rules for the establishment of a drilling unit and an operator, proceeding within the framework of the rules so prescribed, has taken the action necessary to have a specified area established for production from a well, the area shall be a drilling unit;

(11) "DSMRE" means the Department for Surface Mining Reclamation and Enforcement as established in KRS 350.035;

(12) "Field rules" means rules established by orders of the review board relating to the drilling, completion, production of, and specifications for coalbed methane wells in a particular geographic area as defined by an order;

(13) "Gob" means the de-stressed zone associated with any full-seam extraction of coal that extends above and below the mined-out coalbed;

(14) "Gob well" means a well drilled or a vent hole converted to a well pursuant to this chapter which produces or is capable of producing coalbed methane for sale or use, from a de-stressed zone associated with any full seam extraction of coal that extends above or below a mined-out coalbed;

(15) "Horizontally drill" or "horizontal drilling" means the intentional act of drilling a borehole, shaft, or hole, which deviates from vertical for the purpose of penetrating a coal seam to produce coalbed methane;

(16) "Mine licensee" means the mine licensee as defined in KRS 352.010(1)(r);

(17) "Mine permittee" means the permittee as defined in KRS 350.010(21);

(18) "Nonparticipating working interest owner" means a coalbed methane owner or lessee of a tract included in a drilling unit who elects to share in the operation of the coalbed methane well on a carried basis by agreeing to have his or her proportionate share of the costs allocable to his or her interest charged against his or her share of production from the coalbed methane well;

(19) "Nonparticipating operator" means a nonparticipating working interest owner who is also the operator of the coalbed methane well;

(20) "Operator" means any owner of the right to drill, develop, operate, and produce coalbed methane from a pool and to appropriate the coalbed methane produced therefrom, either for himself or herself, or for himself, herself, and others; in the event there is no coalbed methane lease in existence with respect to the tract in question, the owner of the coalbed methane rights therein shall be considered as an "operator" to the extent of seven-eighths (7/8) of the coalbed methane in that portion of the pool underlying the tract owned by that owner, and as a "royalty owner" as to one-eighth (1/8) interest in that coalbed methane;

(21) "Other interested coalbed methane parties" means all working interest owners other than the operator, all royalty and overriding royalty interest owners or holders, and any other party who owns or holds a right or interest in a drilling unit, coalbed methane well site for which a drilling permit has been issued or is pending, and all associated equipment, facilities, infrastructure, and improvements;

(22) "Participating working interest owner" means a coalbed methane owner or lessee who elects to bear a share of the risks and costs of drilling, completing, equipping, operating, plugging, and abandoning a coalbed methane well equal to the proportion which the acreage in the drilling unit he or she owns or holds under lease bears to the total acreage of the drilling unit;

(23) "Participating operator" means a participating working interest owner who is also the operator of the coalbed methane

well;

(24) "Person" means any person, corporation, association, partnership, limited liability company, receiver, governmental agency subject to this chapter, trustee, so-called common law or statutory trust, guardian, executor, administrator, or fiduciary of any kind, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;

(25) "Plat" means a map, drawing, or print showing the location of a well;

(26) "Review board" means the Coalbed Methane Well Review Board;

(27) "Royalty owner" means any owner of coalbed methane in place, or coalbed methane rights, to the extent that the owner is not an operator as defined in subsection (20) of this section;

(28) "Stimulate" means any action taken to increase the flow of coalbed methane, or the inherent productivity of a coalbed methane well, including but not limited to fracturing, shooting, acidizing, or waterflooding, but excluding cleaning out, bailing, or workover operations;

(29) "Unit" means any tract or tracts which the department has determined are underlaid by a pool or pools of coalbed methane and are not drilling units as defined in subsection (10) of this section;

(30) "Unitization" means the act of combining separately owned tracts or separate interests therein into a unit constituting all or some portion of a coalbed that produces or is capable of producing coalbed methane and the joint operation of that unit;

(31) "Unit operator" means the party designated in a pooling order to develop a unit by the drilling of one (1) or more coalbed methane wells;

(32) "Vent hole" means a borehole, shaft driven, or hole dug, drilled, deepened, converted or reopened, which is used for the purpose of releasing or venting coalbed methane to the atmosphere and not for the purpose of capturing or producing coalbed methane for sale or use;

(33) "Venting" means the act of releasing coalbed methane to the atmosphere;

(34) "Well" means any borehole, shaft driven, or hole dug, drilled, deepened, converted or reopened for the purpose of capturing or producing coalbed methane for sale or use; and

(35) "Workable coalbed" means:

  (a) Any coalbed twenty-four (24) inches or more in thickness;

  (b) Any coalbed actually being operated commercially;

  (c) Any coalbed that the department decides can be operated commercially, and the operation of which can reasonably be expected to commence within not more than ten (10) years; or

  (d) Any coalbed that, from outcrop indication or other definite evidence, proves to the satisfaction of the department to be workable and, when operated, will require protection if wells are drilled through or into it.

SECTION 3. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Before a permit may be issued by the department to drill a coalbed methane well on any tract known to be underlaid with coal-bearing strata, the well operator shall provide to the department a plat prepared by a licensed, professional land surveyor and a licensed, professional engineer showing:

  (a) The county in which the coalbed methane well drill site is located;

  (b) The name of the surface owner of the drill site tract, the acreage of the drill site tract, the names of the surface owners of adjacent tracts, the names of all coal interest holders from the surface to fifty (50) feet below the deepest penetration of the coalbed methane well on the tract on which the well is proposed to be located, and the names of all oil and gas owners from the surface to one hundred (100) feet below the deepest penetration of the coalbed methane well on the tract on which the well is proposed to be located;

  (c) The proposed or actual location of the coalbed methane well determined by bearing and distance, relative to two (2) permanent points or monuments that appear on the applicable United States Geological Survey seven and one-half (7-1/2) minute topographic quadrangle map;

  (d) The location of any other existing or permitted coalbed methane well or any oil or gas well located within one thousand five hundred (1,500) feet of the well;

  (e) The outside boundary of the mineral tract from which the coalbed methane is to be produced if within seven hundred fifty (750) feet of the well; and

  (f) The number to be given the coalbed methane well, the earliest date for commencement of drilling, the earliest date for commencement of any stimulation of the coalbed methane well, and if horizontal drilling of a coalbed methane well is proposed, the vertical and horizontal alignment and extent of the coalbed methane well.

(2) If the location of any coalbed methane well proposed to be drilled, deepened, or reopened is known to be underlaid by a coal bearing stratum which is not within the area of an existing mining permit or the proposed permitted area of a pending application or permit modification for a mine before the DSMRE, simultaneously with the filing of an application for a permit, the applicant shall send, by registered or certified mail, a copy of the required plat to the

record coal owner or owners and record coal lessee or lessees from the surface to fifty (50) feet below the deepest penetration of the coalbed methane well on the tract on which the well is proposed to be located.

(3) If the coal bearing stratum is within the area of an existing mining permit or the proposed permitted area of a pending application or permit modification for a mine before the DSMRE, a copy of the required plat shall also be sent by the applicant, by registered or certified mail, to each mine licensee and mine permittee operating any stratum as designated on the current license issued by the department and at the address stated thereon.

(4) If the address of any record owner is unknown to the applicant and cannot upon diligent inquiry within the county be ascertained, or if there are more than five (5) record owners, then the applicant shall file with the department an affidavit that either condition exists, and the department may prescribe some different method of notifying the record owner in lieu of sending a copy of the plat and notice of application as required by this section.

(5) The plat shall be filed and become a permanent record, subject to inspection at any time by any interested person. Any executive officer, process agent, or chief engineer of the mine licensee or mine permittee may be considered a mine licensee or mine permittee for the purposes of mailing the required copy of the plat.

(6) If a coalbed methane well is proposed to be drilled, deepened, converted, or reopened by an applicant who is not the owner or lessee of all of the oil and gas interests, the applicant shall, simultaneously with the filing of the application for a permit, send by registered or certified mail a copy of the required plat to the record oil and gas lessees of, to the record oil and gas lessors of, and to the operator of all oil and gas wells producing from, all formations from the surface to one hundred (100) feet below the deepest penetration of the coalbed methane well on the tract upon which the well is proposed to be located.

(7) The operator shall promptly upon completion of either a vertically drilled coalbed methane well located ten (10) feet or more from the location reflected on the plat required with the permit application or a horizontally drilled coalbed methane well file with the department an as-drilled plat prepared by a licensed professional land surveyor and a licensed professional engineer reflecting the actual coalbed methane well location. If the operator has completed a horizontally drilled coalbed methane well, the as-drilled plat shall show its alignment and extent. The plat shall become a permanent record subject to inspection at any time by any interested persons.

(8) Each plat, or exhibit attached thereto, shall have the following information on a form supplied by the department:

(a) Notice of the application for a coalbed methane well and the address where a copy of the application may be obtained;

(b) A statement that the recipient has twenty (20) days within which to file an objection to the proposed coalbed methane well, its location, the proposed stimulation in the workable coalbed, or the proposed completion in the workable coalbed; and

(c) A statement that the applicant has met and conferred with, or offered to meet and confer with, each coal interest holder concerning the proposed coalbed methane well, its location, the proposed stimulation in the workable coalbed, or the proposed completion in the workable coalbed.

SECTION 4. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) If the drilling of a coalbed methane well could adversely affect the present or future use or operation of a workable coalbed, any coal interest holder may object to a proposed coalbed methane well, the well's location, the proposed stimulation in the workable coalbed, or the proposed completion in the workable coalbed. Any coal interest holder, within twenty (20) days of receipt of the plat by him or her and by the department, may file specific objections in writing with the department. The filed objections shall provide sufficient detail for the applicant to identify the nature and substance of the objection. The department shall notify the applicant of the objections and fix a time and place for a hearing before the review board to be conducted in accordance with KRS Chapter 13B and this chapter.

(2) If any coal interest holder, notified pursuant to Section 3 of this Act, or any other person, claims to have a valid real property interest in, or the current legal right to produce, coalbed methane, the person claiming the real property interest or right shall notify the applicant and the department, in writing, within twenty (20) days from the receipt of the plat by him or her and by the department. The person also shall request that a pooling order be entered pursuant to subsection (1) of Section 16 of this Act.

(3) If the record oil and gas lessor, lessee, or well operator notified pursuant to Section 3 of this Act, or any other person, claims to have a valid real property interest in, or the current legal right to produce, coalbed methane, the person claiming the real property interest or right shall notify the applicant and the department, in writing, within twenty (20) days from the receipt of the plat by him. The person shall request that a pooling order be entered pursuant to subsection (1) of Section 16 of this Act.

(4) If no objections are filed within the twenty (20) day period, the department shall immediately issue a drilling permit to the well operator approving the location of the well and authorizing the well operator to proceed to drill at that location, provided all other preconditions to issuance of a permit, as contained in this chapter, have been met.

(5) Upon receipt of an application to drill a coalbed methane well, the department shall provide a copy of the required plat and permit application to DSMRE. Within fifteen (15) days of receipt by DSMRE notification shall be sent to the department by DSMRE as to whether the proposed coalbed methane well will be located within the boundaries of any coal mine for which a permit has been issued or has been applied for pursuant to KRS Chapter 350. If the proposed

coalbed methane well is to penetrate a workable coalbed that is within the area of an existing permit for an underground mine issued by DSMRE, or the proposed permitted area of a pending application or permit modification for an underground mine before DSMRE, the written authorization of the mine permittee shall be required prior to issuance by the department of a permit to stimulate, complete, or horizontally drill the coalbed methane well in the workable coalbed that is within the area of an existing permit for an underground mine issued by DSMRE or within the proposed permitted area of a pending application or permit modification for an underground mine before DSMRE. If the proposed coalbed methane well is to be located within a surface area permitted, or proposed in a pending application or permit modification to be issued by DSMRE, the written authorization of the mine permittee shall be required prior to issuance by the department of a permit to drill the coalbed methane well. In the absence of the written authorization of the mine permittee, the applicant may file an appeal with the review board requesting approval to drill the proposed coalbed methane well if:

(a) Authorization has been denied by the mine permittee; and

(b) The proposed location and area to be disturbed by the proposed coalbed methane well has achieved either a partial bond release status or the bond for the area has been forfeited.

SECTION 5. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Prior to the abandonment of a coalbed methane well drilled through a workable coalbed, the well operator shall notify, by certified mail, return receipt requested, or by registered mail, all the coal interest holders of the workable coalbed and the department of the operator's intention to plug and abandon the well. The notice shall give the number of the well and its location, and fix the time at which the work of plugging and filling will be commenced. The time shall not be less than fifteen (15) days after the day on which the notice was received, or in due course should be received, by the department. The department shall prescribe the form of notice to be used. A representative of any coal interest holder, at his or her own expense and liability, and of the department may be present at the plugging and filling of the well. Regardless of whether representatives appear, the well operator may proceed, at the time fixed, to plug and fill the well. When the well is plugged and filled, an affidavit setting forth the time and manner in which the well was plugged shall be made in triplicate by two (2) persons experienced in plugging and filling wells who participated in the work. The affidavit shall be made on forms furnished by the department. One (1) copy of the affidavit shall be retained by the well operator, one (1) provided to each coal interest holder, and one (1) provided to the department.

(2) In addition to the notification required under subsection (1) of this section, prior to the abandonment of a coalbed methane well the operator shall submit a plugging plan which is subject to approval by the department. The proposed plugging plan shall be designed to allow coal mining to occur through the well after the well is plugged.

(3) If a coalbed methane well ceases to produce in paying quantities and no dewatering operations are being conducted for a period of fifteen (15) consecutive months, any coal interest holder or any record oil or gas lessor or lessee of any tract being penetrated by the coalbed methane well, may file a request for hearing pursuant to Section 12 of this Act, to determine whether the well has been abandoned and should be plugged in accordance with this section. However, nothing in this subsection shall require the plugging and abandonment of a coalbed methane well that is being temporarily shut in by the coalbed methane well operator. Simultaneously with the filing of a request for a hearing with the department, the person requesting the hearing shall send a copy of the request to the coalbed methane well operator.

(4) Any coal interest holder shall have the following rights with respect to a coalbed methane well to be plugged and abandoned:

(a) To convert the coalbed methane well to a vent hole or otherwise take the coalbed methane well. In this event the department, upon determination that the coal interest holder has placed the coalbed methane well under a mining permit, shall release the coalbed methane well operator's bond and the coalbed methane well operator shall be relieved of further responsibility for the coalbed methane well; and

(b) To file an objection concerning the proposed manner or method of plugging with the department, within fifteen (15) days after receipt of notice of intent to plug. The department shall consider any objection and may issue an order specifying the manner and method of plugging and reclamation consistent with this section.

(5) All coalbed methane wells shall be plugged and abandoned in accordance with this section. The department shall promulgate regulations specifying the manner and method of plugging vertical and horizontal coalbed methane wells and in so doing, or in entering any order for such plugging and abandonment, shall give consideration to the ability to mine any affected coal seam safely and the protection of any affected coal seam for future mining.

SECTION 6. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) If a coalbed methane well is permitted and drilled within the boundaries of any coal mine for which a permit has been issued or an application for a mine permit or a mine permit modification or amendment has been filed but not issued pursuant to KRS Chapter 350, the mine licensee shall have the right to mine through that coalbed methane well and the associated drilling unit in accordance with the provisions of this subsection.

(a) At least one hundred twenty (120) days prior to mining through a coalbed methane well and associated drilling unit, the mine licensee shall notify the review board and operator of its intention to mine through the property. The notice shall be made on a form prescribed by the review board, and shall include a plat showing the

location of the drilling unit, the coalbed methane well and associated surface equipment, facilities, infrastructure, and improvements, and the geographic extent of the mining operations to be conducted within the drilling unit. The mine licensee shall also submit an estimated schedule for commencing and completing mining operations within the drilling unit. After a hearing the review board shall promptly issue a written determination on whether the continued operation of the coalbed methane well will impede, interfere with, or present a possible safety hazard to the mine licensee's planned mining operations. If the review board determines that the coalbed methane well will impede, interfere with, or present a safety hazard to the planned mining operations, concurrently an order shall be issued to the operators, with a copy to the mine licensee, directing the temporary or permanent plugging of the well at the operator's cost and such other action as may be appropriate in the circumstances. Following the issuance of the order, the review board shall promptly issue a mine through certificate to the mine licensee, with a copy to the operator, authorizing the mine licensee to mine-through the coalbed methane well and associated drilling unit.

(b) The mine licensee and all other coal interest holders having interests in the coalbed within the drilling unit shall have no duty or obligation to compensate or pay the operator or other interested coalbed methane parties for any causes of action, claims, or damages arising from the suspension or loss of coalbed methane production or the plugging and abandonment of a coalbed methane well and the removal or relocation of any associated facilities, infrastructure, and improvements due to mining through the coalbed methane well and associated drilling unit pursuant to this subsection.

(2) If a mine licensee files an application for a coal mine permit or seeks to modify or amend an existing coal mine permit so as to include a geographical area containing one (1) or more existing coalbed methane wells or any well sites for which drilling permits have been issued or are pending, the mine licensee shall have the right to mine through those coalbed methane wells or into or through a coalbed methane well and the associated drilling units and any well sites for which permits to drill have been issued or applications for permits to drill have been filed but not issued in accordance with the provisions of this subsection.

(a) At least one hundred eighty (180) days prior to mining into or through one (1) or more drilling units or permitted well sites operated by a common operator, the mine licensee shall notify the review board and the operator of its intention to mine into or through the property. The notice shall be made on a form prescribed by the review board and shall include a plat showing the location of the drilling unit, the coalbed methane well and associated surface equipment, facilities, infrastructure, and improvements, and the geographic extent of the mining operations to be conducted within the drilling unit. The mine licensee shall also submit an estimated schedule for commencing and completing mining operations within the drilling unit.

(b) Within thirty (30) days after receiving the mine licensee's notice pursuant to paragraph (a) of this subsection, the mine licensee and operator shall enter into a confidentiality agreement on a form prescribed by the review board and the operator shall provide, to the extent available, copies of all data and information necessary and appropriate to enable the mine licensee to determine the current value of each drilling unit, well site, and any associated assets described in the mine licensee's notice in accordance with the criteria set forth in paragraph (e) of this subsection. The information shall be in a form prescribed by the review board and shall include, among other things, data, reports, and information relating to current coalbed methane reserve calculations, well completions, historic production and sales results, capital and operating costs, all actual land, legal permitting, survey, title, and any other costs and expenses directly relating to the acquisition, permitting, development, and operation of each drilling unit and well site, and estimated well plugging and abandonment costs of any existing coalbed methane wells. In addition, the operator shall provide the review board and mine licensee with copies of all agreements and leases, payment division orders and any pooling agreements or pooling orders for each drilling unit and well site, together with a schedule setting forth the name, address, and working interest and net revenue percentages, royalties and overriding royalties, and all other interests and rights of all other interested coalbed methane parties. If the information is not timely filed or is incomplete, the mine licensee may seek an order from the review board directing the operator to comply with the provisions of this subsection.

(c) Within thirty (30) days after receiving the information described in paragraph (b) of this subsection, the mine licensee and operator shall meet and confer at a mutually agreed upon date, time, and place for the purpose of attempting to conclude a mutually acceptable agreement as to the compensation due to the operator for any damage, impairment, or loss to each drilling unit, well site, and any associated assets described in the information provided by the operator resulting from the mine licensee's planned mine-through operations. Any compensation agreement between the mine licensee and operator for each drilling unit or well site shall be approved and executed by all other interested coalbed methane parties. The mine licensee and operator shall jointly notify the review board that a compensation agreement has been entered into between the parties and request that the review board issue a mine-through certificate for each drilling unit and well site described in the notice. The notice shall include any terms and conditions set forth in the compensation agreement that the parties have agreed to incorporate in the applicable mine-through certificates. Upon receipt of the executed compensation agreement, the review board shall promptly issue the requested mine-through certificates to the mine licensee, with copies to the operator and all other interested coalbed methane parties. If the parties are

unable to reach an agreement, within ten (10) days following the expiration of the thirty (30) day meet and confer period, either party may request a hearing before the review board for the purpose of determining the compensation due the operator and any terms and conditions to be imposed upon the mine licensee's proposed mining operations. Copies of the hearing request shall be sent to all other interested coalbed methane parties.

(d) Within fifteen (15) days of receiving the hearing request, the review board shall schedule a hearing to take place within sixty (60) days and shall notify the mine licensee, the operator and all other interested coalbed methane parties of the date, time, and location of the hearing. At its election, the review board may engage a qualified petroleum engineer for the purpose of conducting an independent evaluation of the compensation to be paid to the operator and all other interested coalbed methane parties in accordance with paragraph (e) of this subsection. The mine licensee and the operator shall each pay one-half (1/2) of the costs and expenses for the petroleum engineer retained by the review board.

(e) The review board shall determine the value of each drilling unit, well site, and all associated assets before and after the mine licensee's planned mine-through operations. In determining the amount of compensation due the operator and all other interested coalbed methane parties, the review board must consider all relevant evidence and information submitted and the review board shall base its decision solely upon the following criteria and procedures:

1. Except as otherwise expressly provided in this subsection, all coalbed methane reserve estimates and the valuation of reserves and other assets damaged, impaired, or lost due to the planned mining operations shall be consistent with standard oil and gas industry accounting, engineering, and reserve practices and shall be performed pursuant to the then-current applicable laws, regulations, policies, and guidelines for determining gas reserves for public reporting companies in the United States.

2. At the hearing, the mine licensee and operator, on behalf of itself and all other interested coalbed methane parties, shall appear and submit evidence and testimony as to the value of the subject drilling units, well sites, and any associated assets before and after the mine licensee's planned mining operations. The review board shall only consider coalbed methane reserve estimates or valuation determinations made in conformity with subparagraph 1. of this paragraph by a professional petroleum engineer with experience in evaluating coalbed methane reserves and operations. All reserve estimates and any valuation analysis prepared by the mine licensee and operator for use in the review board's hearing shall be effective thirty (30) days prior to the date of the hearing. The reserve estimates and valuation analysis shall be exchanged between the mine licensee and operator and copies of the information shall be provided to the review board and all other interested coalbed methane parties no less than twenty-one (21) days prior to the hearing date. Any coalbed methane reserve estimates or valuation analysis prepared at the review board's request shall be set forth in a written report. Copies of the report prepared for the review board shall be provided to the mine licensee, the operator, and all other interested coalbed methane parties no less than ten (10) days prior to the review board's hearing date.

3. All estimates of remaining recoverable coalbed methane reserves immediately before and immediately after the planned mining operations shall consist of proved developed producing or proved developed nonproducing reserves as determined pursuant to this subsection. A drilling unit shall have proved developed producing reserves if the unit has an operating coalbed methane well, which is completed in one (1) or more target coal seams and is producing commercial quantities of coalbed methane. The drilling units total proved developed producing reserves before and after the planned mining operations shall be calculated based on the completed coal seams within the unit well. A drilling unit shall have proved developed nonproducing reserves if the unit has a coalbed methane well which is completed in one (1) or more target coal seams and is fully operational and all associated infrastructure such as power, gas gathering, and water management systems required to produce and sell coalbed methane in commercial quantities has been constructed, but the well is not producing coalbed methane in commercial quantities because it either is in the dewatering stage or is not operating due to factors beyond the operator's control. Whether a drilling unit contains proved developed producing reserves or proved developed nonproducing reserves shall be determined based on the status of the coalbed methane well and associated infrastructure sixty (60) days prior to the review board's hearing date.

4. The net present value of proved developed producing reserves projected immediately before and immediately after the planned mining operations shall be calculated using a discount rate of twelve percent (12%). The net present value of proved developed nonproducing reserves projected immediately before and immediately after the planned mining operations shall be calculated using a discount rate of twenty percent (20%). The valuation analysis shall also project the net present value of all revenues received, if any, by the operator during the period in which the planned mining operations are to be conducted.

5. In determining the compensation due the operator and all other interested coalbed methane parties for delayed or lost production, if the total projected production of the coalbed methane well is reduced so as not to yield a commercially reasonable return on investment to the operator, but the well is still able to *produce coalbed methane in commercial quantities, the projected difference in the net present value of the recoverable reserves before and after mining shall be included as part of the compensation due the operator and all other interested coalbed methane parties.*

6. In determining the value of the coalbed methane reserves impaired or lost due to the planned mining operations, except as expressly provided herein, no consideration shall be given to undeveloped coalbed methane resources in coal seams which have not been completed in the subject coalbed methane well or which are in coal seams below the total depth of the well bore. If, however, a coal seam in the same field is producing coalbed methane but the coal seam is not completed in the subject coalbed methane well, the operator may submit evidence to the review board for its consideration as to the potential net present value of the resources within the uncompleted seam, but in no event shall the net present value of those resources be discounted at less than thirty percent (30%).

7. Except as otherwise provided herein, in determining the value of coalbed methane for purposes of this subsection, the gas price shall be the last published price in the gas market closest to the drilling unit sixty (60) days prior to the review board's hearing date. If the coalbed methane is sold pursuant to a gas sales agreement or marketing contract in which the gas price is determined based on a published price, subject to any contractual adjustment, in the gas market other than the market closest to the drilling unit, the gas price shall be determined based on the last published price in a gas market referred to in the gas sales agreement or marketing contract, subject to any contractual adjustment set forth therein, sixty (60) days prior to the review board's hearing date. If the coalbed methane is sold pursuant to an arms-length firm or fixed price gas sales agreement or marketing contract, the actual sales price received by operator for gas sold sixty (60) days prior to the review board's hearing date shall be used as the gas price in the coalbed methane valuation.

8. All capital, operating, and production costs used in the net present value determinations made pursuant to this subsection shall be based on the operator's then current reasonable and verifiable actual costs and expenses. Copies of all relevant and available cost information shall be provided by the operator to the review board and mine licensee as provided in paragraph (b) of this subsection. If actual cost information is not otherwise available, all calculations shall be made using reasonable and customary costs for comparable coalbed methane operations in the Commonwealth and in the surrounding states.

9. If the planned mining operations will mine through a coalbed methane well or require the removal, relocation, or suspension of operation of other facilities, infrastructure, or improvements in a drilling unit, the operator and any other interested coalbed methane parties shall be reimbursed for all reasonable actual and direct costs, damages, and expenses to be incurred due to these mining operations; provided, however, that in no event shall any replacement costs and expenses exceed the operator's or any other interested coalbed methane parties' actual costs and expenses for the affected well, facilities, infrastructure, and improvements, as the case may be. The operator and any other interested coalbed methane parties shall not be reimbursed for any general, administrative, or overhead costs and expenses or any other costs and expenses not otherwise allocated to the costs of the subject drilling unit, coalbed methane well and the associated facilities, infrastructure, and improvements. Any amounts due the operator and any other interested coalbed methane parties shall be reduced by the projected then-current market value of such equipment, facilities, and improvements to the extent that it can be salvaged and sold or used in other operations.

10. If, prior to drilling a coalbed methane well, the mine licensee submits a plan to mine into or through any part of the associated drilling unit or well site for which a drilling permit has been issued or is pending, the operator shall not proceed with drilling a coalbed methane well pending a final decision by the review board with respect to the mine licensee's request for a mine-through certificate. When a mine-through certificate is issued to the mine licensee, the operator and all other interested coalbed methane parties shall be reimbursed for all reasonable costs and verifiable actual land, legal, permitting, surveying, and technical costs and expenses incurred to acquire or lease and maintain the property and obtain any permits, approvals, and other agreements required to drill the coalbed methane well. The operator and all other interested coalbed methane parties shall not be reimbursed for any general, administrative, or overhead costs and expenses or any other costs and expenses not otherwise allocated to the costs to acquire or lease the subject property or permit the coalbed methane well.

(f) At a hearing, the review board shall take testimony and evidence from the mine licensee and operator, on behalf of itself and all other interested coalbed methane parties consistent with the provisions in this subsection. Within fifteen (15) days following the hearing, the review board shall issue a written decision to the mine licensee and operator determining the compensation due the operator and each of the other interested coalbed methane parties in the amount of the difference between the value of each drilling unit, well site, and any associated assets before and after the mine licensee's planned mining operations. If the review board determines that the mine licensee's proposed mining operations will result in a loss or taking of all of either the coalbed methane reserves in the coal seam to be mined and all coalbed methane reserves in completed coal seams in the coalbed methane well below the mined coal seam as provided in paragraph (e)5. of this subsection or the entire

drilling unit, the operator and other interested coalbed methane parties shall be awarded the full value of the property and assets prior to the proposed mining operations as determined by the review board. The review board's decision shall list the compensation amounts to be paid to the operator and each of the other interested coalbed methane parties for each drilling unit, well site, and any associated assets. The decision shall also set forth any duties or obligations to be performed by the parties, such as the temporary or permanent plugging of any well or the relocation or removal of any surface facilities, to enable the mine licensee to proceed immediately with the planned mining operations.

(g) Within fifteen (15) days of receiving the review board's decision, the mine licensee shall notify the review board and the operator and all other interested coalbed methane parties of its decision to:

1. Accept the review board's decision with respect to one (1) or more of the drilling units, well sites, and associated assets and deposit the compensation awarded to the operator and each of the other interested coalbed methane parties for the property;

2. Appeal all or part of the review board's decision as provided in paragraph (j) of this subsection; or

3. Withdraw notice of intent to mine into any of the subject coalbed methane property and assets. If the mine licensee elects to withdraw notice of intent to mine into or through all of the drilling units, well sites, and any associated assets which were the subject of the review board hearing, upon receiving a statement of costs from the operator, the mine licensee shall promptly reimburse the operator for all reasonable out-of-pocket engineering and legal costs and expenses incurred to prepare for and participate in the review board hearing and shall have no further obligations to the operator or any of the other interested coalbed methane parties.

(h) Within fifteen (15) days of receiving the review board's decision, the operator, on behalf of itself and other interested coalbed methane parties, shall notify the review board and the mine licensee whether it will accept the amounts awarded by the review board or file an appeal with the Circuit Court in the county where the drilling unit or well site is located challenging the review board's valuation of any of the property or assets.

(i) If no appeal of the review board's decision is filed by the parties, upon receipt of the compensation due the operator and all other interested coalbed methane parties for each drilling unit and well site selected by the mine licensee for which a mine-through certificate will be issued, the review board shall promptly deliver the awarded compensation to the operator and all other interested coalbed methane parties for the drilling unit and well site and concurrently issue the appropriate mine-through certificate to the mine licensee, with copies to the operator and all other interested coalbed methane parties. If the operator and other interested coalbed methane parties are awarded either the total net present value of the coalbed methane reserves in coal seams to be mined by the mine licensee and all coalbed methane reserves in coal seams completed in a coalbed methane well below such coal seam as provided in subparagraph 5. of paragraph (e)5. of this subsection or the total value of the entire drilling unit and associated assets, upon payment of the compensation, the operator and other interested coalbed methane parties shall simultaneously, if requested by the mine licensee, assign and transfer free and clear of all encumbrances to the mine licensee all of their respective rights, title, and interests in such property and assets, as the case may be, within the drilling unit on a form to be prescribed by the review board. The review board shall take whatever other action that may be deemed appropriate or necessary in the circumstances.

(j) If either party notifies the review board of a decision to appeal the review board's valuation of any of the subject coalbed methane properties and assets to the Circuit Court, the mine licensee shall deposit with the review board the compensation due the operator and each of the other interested coalbed methane parties for each drilling unit, well site and any associated assets selected by the mine licensee for which a mine-through certificate will be issued. Upon receipt of the funds from the mine licensee, the review board shall promptly deliver to the operator and the other interested coalbed methane parties one hundred percent (100%) of the awarded compensation for any drilling unit, well site and any associated assets not listed in any notice of appeal and seventy-five percent (75%) of the awarded compensation to the operator and other interested coalbed methane parties for any drilling unit, well site, and any associated assets for which an appeal is to be filed. Concurrently with delivering the awarded compensation to the operator as provided herein, the review board shall issue to the mine licensee, with copies to the operator and all other interested coalbed methane parties, a mine-through certificate for each drilling unit and well site for which compensation has been received. If the review board's decision with respect to any drilling unit is not appealed and the operator and other interested coalbed methane parties are awarded either the total net present value of the coalbed methane reserves in the coal seam to be mined by the mine licensee and all coalbed methane reserves in coal seams completed in a coalbed methane well below that coal seam as provided in paragraph (e)5. of this subsection or the total value of each drilling unit, well site, and any associated assets, upon payment of the compensation, the operator and other interested coalbed methane parties shall simultaneously if requested by the mine licensee, assign and transfer free and clear of all encumbrances to the mine licensee all of their respective rights, title, and interests in that property and assets, as the case may be, within the drilling unit or well site on a form to be prescribed by the review board. The review board shall take whatever other action that may be deemed appropriate or necessary in the circumstances to carry out its decision. All funds deposited with the review board shall be

placed in an interest-bearing account pending a final resolution of any appeals.

(k) Within thirty (30) days following the issuance of the review board's decision, the mine licensee or the operator, on behalf of itself and any other interested coalbed methane parties, may file a petition in the Circuit Court of the county in which the drilling unit or well site is located or in the Franklin County Circuit Court disputing the review board's valuation of all or any part of any coalbed methane properties or assets pursuant to this subsection. The parties filing the petition shall name as parties to the action the following: the review board, the mine licensee, all other coal interest holders, the operator, and all other interested coalbed methane parties. Promptly upon receiving notice of the petition, the review board shall deliver any remaining funds deposited by the mine licensee as provided in paragraph (j) of this subsection, together with all interest accrued thereon, to the clerk of the Circuit Court for the county in which the petition is filed and these funds shall be deposited in an interest bearing account pending a decision on the petition. The decision of the Circuit Court shall be made in accordance with the provisions of Section 18 of this Act. If the Circuit Court determines the operator and other interested coalbed methane parties are entitled to greater compensation than the amount awarded by the review board, the mine licensee shall pay the difference to the clerk of the Circuit Court within fifteen (15) days of the court's decision. Upon receipt of the additional funds awarded by the Circuit Court, the clerk shall promptly deliver to the operator and any other interested coalbed methane parties these funds together with all interest accrued thereon. If the Circuit Court determines that the operator is entitled to less compensation than the amount awarded by the review board, the amount of the reduction shall be refunded to the mine licensee together with any interest that accrued thereon. If the escrowed funds are not sufficient to fully reimburse the mine licensee, the operator and all other interested coalbed methane parties having an interest in the subject coalbed methane properties and assets shall promptly pay the mine licensee for the difference between the escrowed funds and the total amount to be reimbursed pursuant to the Circuit Court's order. If the Circuit Court determines that the operator and other interested coalbed methane parties are to receive either the total net present value of the coalbed methane reserves in the coal seam to be mined by the mine licensee and all coalbed methane reserves in coal seams completed in a coalbed methane well below such coal seam as provided in paragraph (e)5. of this subsection or the total value of the entire drilling unit, well site, and any associated assets, which values may be increased or decreased by the Circuit Court, upon receipt of the awarded compensation, the operator and other interested coalbed methane parties shall simultaneously if requested by the mine licensee, assign and transfer free and clear of all encumbrances to the mine licensee all of their respective rights, title, and interest in such property and assets, as the case may be, within the drilling unit on a form to be prescribed by the review board.

(l) Subject to obtaining a decision by the Circuit Court with respect to any appeals initiated pursuant to paragraph (k) of this subsection, the operator and all of the other interested coalbed methane parties' acceptance of the compensation awarded by the review board and of the performance of any duties and obligations by the mine licensee as ordered by the review board shall constitute full and complete consideration to the operator and all of the other interested coalbed methane parties for any and all causes of action, claims, damages, or losses to each drilling unit or any portion thereof, well site, or any associated assets caused by the mine licensee, or any other coal interest holder's subsequent mining operations. The mine licensee shall be liable for any and all injuries, deaths, or damages proximately caused by the mine licensee on, in, or with respect to that property.

(3) If, after the mine licensee files a notice of intention to mine into or through any coalbed methane properties or assets pursuant to subsection (1) or (2) of this section, the mine licensee's coal mining permit or any pending amendment to an existing permit issued pursuant to KRS Chapter 350 is withdrawn, canceled, delayed, or modified so as to exclude all or any part of the geographic area covering any drilling unit or well site described in the mine licensee's notice, the mine licensee shall promptly advise the review board and operator that it is amending its request for a mine-through certificate to exclude any property that is no longer subject to a coal mine permit or a pending coal mine permit application.

SECTION 7. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) This chapter shall apply to all lands located in the Commonwealth however owned including lands owned or administered by any government or any agency or political subdivision thereof, over which the Commonwealth has jurisdiction under its police power.

(2) The waste of coalbed methane is hereby prohibited. The waste prohibited includes physical waste as that term is generally understood in the oil, gas, and coalbed methane industry, giving consideration to coal mining operations and the safe recovery of coal and includes:

(a) The locating, drilling, equipping, operating, or producing of any coalbed methane well or wells drilled, deepened, or reopened in a manner that causes or tends to cause a reduction in the quantity of coalbed methane ultimately recoverable from a pool under prudent and proper operations, or contrary to any provision of, or any order, rule or administrative regulation promulgated or issued under this chapter;

(b) Permitting the migration of coalbed methane from the stratum in which it is found into other strata, thereby ultimately resulting in the loss of recoverable coalbed methane;

(c) The drowning with water of any stratum or part thereof capable of producing coalbed methane in paying

quantities, except for secondary recovery purposes, or in hydraulic fracturing or other completion practices;

(d) The unreasonable damage to underground, fresh or mineral water supply, workable coalbeds, or other mineral deposits in the operations for the discovery, development, production, or handling of coalbed methane;

(e) The unnecessary or excessive loss of coalbed methane by spillage or venting or destruction of coalbed methane or its constituents; and

(f) The drilling of more wells than are reasonably required to recover efficiently the maximum amount of coalbed methane from a pool.

(3) For purposes of this chapter, waste does not include coalbed methane vented or released from any mine area, the degasification of a coal seam for the safe recovery of coal, the plugging of coalbed methane wells for the safe recovery of coal, or the conversion of coalbed methane wells to vent holes for the safe recovery of coal.

(4) The sale or use of coalbed methane from any coalbed methane well unless a permit has been issued as required by Section 8 of this Act, or in violation of the spacing provisions of Section 15 of this Act, shall be prohibited.

SECTION 8. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) It is unlawful for any person to drill, commence, operate, deepen, convert, or stimulate any coalbed methane well, to conduct any horizontal drilling of a coalbed methane well or to convert any existing oil or natural gas well to a coalbed methane well, without first securing from the department a permit pursuant to this chapter. Before any well, borehole, or facility initially used for a coal mining related purpose, such as a vent hole, is converted for the purpose of recovering coalbed methane for sale or use, the operator shall obtain a permit and comply with the provisions of this chapter prior to the time that the well, borehole, or facility is converted or used for the purpose of recovering coalbed methane for sale or use. It is unlawful for any person to drill, deepen, convert, or reopen a coalbed methane well for the production of oil or natural gas or for the injection of water, gas, or other fluids into any oil or natural gas producing formation until the person has obtained a permit from the department for a petroleum or natural gas well pursuant to KRS 353.570. However, no additional permit fee shall be required if the original permit for the coalbed methane well has not expired.

(2) Every permit application filed under this section shall be verified and shall contain the following:

(a) A statement that the applicant claims to have a valid real property interest in, or the current legal right to produce coalbed methane from a person claiming a valid real property interest in, the coalbed methane. The statement shall identify with specificity the nature of the real property interest and the document or instrument evidencing that interest or right, including recording information of any recorded document or instrument;

(b) The names and addresses of the coalbed methane well operator and every person or entity whom the applicant must notify under any section of this chapter;

(c) The name and address of each coal interest holder of any workable coalbed which is to be penetrated by a proposed coalbed methane well or within seven hundred fifty (750) horizontal feet or fifty (50) vertical feet of any portion of the proposed coalbed methane well;

(d) The name and addresses of each record oil and gas lessee of, the record oil and gas lessor of, and the operator of all oil and gas formations from the surface to one hundred (100) feet below the deepest penetration of the coalbed methane well on the tract upon which the coalbed methane well is proposed to be located;

(e) The coalbed methane well name or such other identification as the department may require;

(f) The approximate depth to which the coalbed methane well is to be drilled, deepened, or converted, the coal seams including the depth and thickness of each seam that will be completed for production, and any other coal seams which will be penetrated by the coalbed methane well;

(g) A description of any means to be used to stimulate any of the workable coalbeds penetrated by the coalbed methane well;

(h) If the proposed coalbed methane well will require casing or tubing, the entire casing program for the coalbed methane well, including the size of each string of pipe, the starting point and depth to which each string is to be set, and the extent to which each string is to be cemented;

(i) If the proposed operation is to convert an existing petroleum or natural gas well, as defined in KRS 353.010(13), or to convert a vertical borehole or facility initially used for a coal mining related purpose, such as a vent hole, to a coalbed methane well, all information required by this section, all formations from which production is anticipated, and any plans to plug any portion of the well;

(j) Except for a vent hole proposed to be converted to a coalbed methane well, if the proposed coalbed methane well will be completed in some but not all coal seams for production, a plan and design for the coalbed methane well which will protect all workable coalbeds which will be penetrated by the coalbed methane well;

(k) If the proposed operations will include horizontal drilling of a coalbed methane well, a description of the operations, including both the vertical and horizontal alignment and extent of the coalbed methane well from the surface to total depth; and

(l) Other information as the department may require consistent with this chapter.

(3) Each application for a coalbed methane well permit shall be accompanied by the following:

(a) A permit application fee of three hundred dollars ($300);

(b) A bond in an amount prescribed in Section 24 of this Act; and

(c) A certificate that the applicant's notice requirements of Section 3 of this Act have been satisfied. Certification may be by affidavit of personal service, or the return receipt card, or other postal receipt, for certified mailing.

(4) Prior to the department's issuance of a permit to drill a coalbed methane well, a copy of the written authorization from the mine licensee shall be filed with the application under the following circumstances:

(a) If the proposed coalbed methane well is to penetrate a workable coalbed that is within the permitted area of an existing permit or the proposed permitted area of a permit pending before the DSMRE and if the applicant plans to stimulate, complete, or horizontally drill the coalbed methane well in a workable coalbed that is within the permitted area of an existing permit or the proposed permitted area of a permit pending before DSMRE;

(b) If the proposed coalbed methane well is to be located within a surface area permitted under an existing permit, or the proposed permitted area of a permit pending before DSMRE for which no bond release has been obtained; or

(c) If the proposed coalbed methane well is to be located within a surface area permitted under an existing permit by DSMRE for which a partial bond release has been obtained.

If a coalbed methane well permit is issued for a well site located within the boundaries of any coal mine for which a permit has been issued or is pending pursuant to KRS Chapter 350, the permit shall include a provision specifically stating that the permitted coalbed methane well location is in an area for which a coal mine permit has been issued or is pending pursuant to KRS Chapter 350 and is subject to the mine-through rights set forth in subsection (1) of Section 6 of this Act.

(5) If a partial bond release for the surface area on which the proposed coalbed methane well is located has been obtained from DSMRE and the applicant is denied written authorization from the mine licensee, the applicant may file an appeal with the review board requesting approval to drill the proposed coalbed methane well. When requesting an appeal, the applicant shall submit a verified statement including the following:

(a) The applicant has met and conferred with or offered to meet and confer with the mine licensee concerning the authorization;

(b) The mine licensee has refused to provide written authorization to disturb the permitted area;

(c) The physical area to be disturbed by the proposed well location and the use of area, including ingress and egress thereto, qualifies as a commercial or industrial postmining land use entitling the mine licensee to a complete bond release for the area to be disturbed by the coalbed methane well operator in accordance with KRS Chapter 350; and

(d) The applicant has agreed to pay the reasonable and actual costs of the permit revision required by DSMRE to affect the incremental bond release for the proposed area to be disturbed by the coalbed methane well operator, not to exceed five thousand dollars ($5,000).

(6) Prior to the issuance of a permit to drill a coalbed methane well, the applicant shall grant assignable subsidence waivers to any mine licensee if requested in an objection filed pursuant to Section 12 of this Act and, if required, to allow present or future mining with planned subsidence under KRS Chapter 350. However, this subsection and any subsidence waivers shall in no way waive, affect, or impair the ability of the applicant or the applicant's successors or assigns to pursue any remedies for damages to persons, or to improved or tangible property, suffered or incurred as a result of any subsidence caused by the mine licensee or the mine licensee's successors or assigns. The mine licensee, its successors or assigns, shall be liable for any and all damages to persons or to improved or tangible property proximately caused by the mine licensee.

(7) If the mine licensee is mining in a coal seam that is not being produced by the coalbed methane well operator and has not exercised his or her mine-through rights, as set forth in subsection (1) or (2) of Section 6 of this Act, in any coal mine before removing any coal or other material or driving any entry or passageway within five hundred (500) horizontal feet of the vertical segment of a coalbed methane well or within fifty (50) vertical feet of the horizontal segment of a coalbed methane well, the mine licensee shall forward simultaneously to the well operator and to the department, by certified mail, return receipt requested, or by registered mail, a copy of the maps and plans required by law to be filed and kept up to date. Maps or plans shall show the mine workings and projected mine workings within five hundred (500) horizontal feet of the coalbed methane well. However, the issuance of any coalbed methane well permit shall not preclude or prevent coal mining outside two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of a coalbed methane well or outside of the workable coalbed in which the horizontal segment of a coalbed methane well is located, unless specified by the department for reasons of mine or well safety. The mine licensee shall not mine within fifty (50) feet of the vertical segment of a coalbed methane well without the written authorization of the coalbed methane well operator. A mine licensee may file a request with the department to mine closer than two hundred (200) feet of the vertical segment of the coalbed methane well. The mine licensee shall forward simultaneously to the well operator and the department, by certified mail, return receipt requested, or by registered mail, a request to mine closer than two hundred (200) feet, but not closer than fifty (50) feet, of the vertical

segment of the coalbed methane well, which shall be accompanied by the following:

(a) A copy of the maps and plans required by law to be filed and kept up to date, showing on the copy of the map or plan its mine plan workings and projected mine workings beneath the tract of land and within two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well; and

(b) A statement that the applicant has met and conferred with, or offered to met and confer with, the well operator concerning the mine licensee's plan to mine closer than two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well.

The well operator may, within twenty (20) days of receipt of the documents listed in paragraphs (a) and (b) of this subsection, file specific objections in writing with the department. When objections are filed, the department shall provide a copy of the objections to the mine licensee and fix a time and place for an informal hearing. The hearing shall be held not more than ten (10) days from the end of the twenty (20) day period. At the hearing, the mine licensee and the well operator, in person or by representative, shall consider the objections and seek agreement on the character and the extent of operations to be conducted within less than two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well. If no agreement can be reached, the department, after administrative hearing conducted in accordance with KRS Chapter 13B, shall make a decision defining what coal, if any, is necessary to be left for the safe protection, use, and operation of the well. The department's decision shall be subject to appeal by either party as provided in this chapter. The department shall keep a complete record of all hearings. The mine licensee shall, every six (6) months, while mining within two hundred (200) feet, but not closer than fifty (50) feet, of the vertical segment of the coalbed methane well, file up-to-date maps and plans required by this section, or file new maps and plans complete to date.

(8) The department may deny the issuance of a permit if it determines that the applicant has a documented pattern or practice of substantial violations of the provisions of this chapter and has failed to abate or seek review of the violations. If the department finds that a substantial violation has occurred with respect to existing operations and that the operator has failed to abate or seek review of the violation in the time prescribed, the department may suspend the permit. After a suspension, the operator shall forthwith cease all work being conducted under the permit until the department reinstates the permit. The department shall make a written finding of its determination and may enforce the determination in Circuit Court pursuant to Section 29 of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) When two (2) or more separately owned tracts, or portions thereof, are embraced within a drilling unit, or when there are separately owned interests in all or part of any such drilling unit, the operators or owners of coalbed methane owning the interests may pool their interests for the development and operation of the drilling unit by voluntary agreement. These agreements may be based on the exercise of pooling rights or rights to establish units which are granted in any gas or oil lease, coal lease, coalbed methane lease, or similar instrument.

(2) No voluntary pooling agreement between or among coalbed methane operators or owners shall be held to violate the statutory or common law of the Commonwealth which prohibits monopolies or acts, arrangements, contracts, combinations, or conspiracies in restraint of trade or commerce.

SECTION 10. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) If any coal interest holder has objected to the proposed stimulation pursuant to subsection (1) of Section 4 of this Act, no permit shall be issued to stimulate a coalbed methane well unless the applicant has obtained and filed with the department an agreement between the coal interest holders of any workable coalbed within five hundred (500) horizontal feet of the proposed coalbed methane well to be stimulated and within the five hundred (500) foot horizontal radius and feet fifty (50) vertical feet above or below the workable coalbed proposed to be stimulated.

(2) The requirement for an agreement to stimulate in this section shall not be construed to impair, abridge, or affect any contractual rights or obligations arising out of a contract, lease, deed, or similar agreement which provides for the development of coalbed methane and stimulation of workable coalbeds between the applicant and the coal interest holder. The existence of any such contract, lease, deed, or similar document shall constitute a waiver of the requirement to file an agreement to stimulate with the department.

(3) An agreement to stimulate shall provide:

(a) That the coal interest holder has been provided with a copy of the permit application to drill a coalbed methane well and a copy of all plats and documents which may accompany the application; and

(b) That the coal interest holder agrees to the stimulation of the workable coalbed as described in the application.

(4) Subject to subsection (5) of Section 4 of this Act, in the absence of the applicant submitting the agreement to stimulate as described herein, the applicant may submit a request for a hearing before the review board accompanied by an affidavit, or verified statement, which shall include the following:

(a) A statement that the coal interest holder has refused to sign a written agreement to stimulate the workable coalbed;

(b) A statement detailing the efforts undertaken to obtain the signed agreement to stimulate; and

(c) A statement that the proposed method of stimulation does not involve the use of explosives and will not have a

significant adverse affect on the mineability of the workable coalbed, or impair mine safety.

(5) The failure to obtain an agreement to stimulate shall in no way create an inference or presumption that the method of stimulation proposed by the applicant will harm the workable coalbed.

(6) Upon receipt of a request for a hearing and an affidavit, or verified statement, as set forth in this section, the department shall forward the application to the review board to consider the proposed stimulation, or if other objections or requests are filed requiring a hearing before the review board, the request may be included for consideration by the review board along with other matters related to the permit application.

(7) Any well operator that stimulates a workable coalbed without an agreement to stimulate from the coal interest holder shall be liable in tort without proof of negligence for any damages proximately caused by the stimulation to the workable coalbed, or any other workable coalbed within five hundred (500) horizontal feet of the coalbed methane well stimulated or within the five hundred (500) foot horizontal radius and fifty (50) vertical feet above or below the workable coalbed stimulated and for damages to any mining equipment proximately caused by the stimulation. The well operator shall be liable for injury, death, or damage to property proximately caused by the stimulation.

SECTION 11. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) The Coalbed Methane Well Review Board is hereby established. The review board shall be composed of five (5) members and shall have the powers and duties specified under this chapter.

(2) The review board shall consist of the commissioner of the Department of Natural Resources, the commissioner of the Department of Mines and Minerals, and the director of the Division of Oil and Gas within the Department of Mines and Minerals, a representative of the oil and gas industry, and a representative of the coal industry. The representatives from the oil and gas industry and the coal industry shall be appointed by the Governor for terms of four (4) years.

(3) The review board shall be, for administrative purposes only, attached to the Division of Oil and Gas within the Department of Mines and Minerals.

SECTION 12. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) The review board shall rule upon:

(a) Objections to proposed coalbed methane wells, their locations, the proposed stimulation, or the proposed completion pursuant to Section 4 of this Act;

(b) Appeals of permit denials arising under subsection (5) of Section 4 of this Act;

(c) Requests for a hearing arising under subsection (3) of Section 5 of this Act ;

(d) Requests for pooling orders pursuant to subsection (1) of Section 16 of this Act;

(e) Requests for the establishment or modification of drilling units for coalbed methane wells;

(f) Requests for the creation or modification of field rules relating to the drilling, completion, and production of coalbed methane wells; and

(g) Requests for the unitization of coalbed methane wells, pools, or fields.

(2) The review board shall meet, hold conferences, and hold hearings at a time and place as designated by the chairman. The chairman may call a meeting of the review board at any time. A majority of the members of the review board shall constitute a quorum for the transaction of any business to come before the review board. All determinations of the review board shall be by majority vote of the quorum present. The commissioner, or his designee within the department, shall be the chairman of the review board. The review board shall hold a regular monthly meeting. Notice of all meetings of the review board shall be given to each member by the chairman at least ten (10) days in advance of each meeting, unless otherwise agreed by the members.

(3) The review board shall execute, carry out, administer, and enforce the provisions of this chapter in the manner provided in this section.

(4) The review board may:

(a) Take evidence and issue orders concerning the permitting of a coalbed methane well, its location, stimulation, and the completion pursuant to Section 3 of this Act; issue pooling orders in accordance with subsection (1) of Section 16 of this Act; issue orders regarding the establishment or modification of drilling units for coalbed methane wells, field rules relating to the drilling, completion, and production of coalbed methane wells; and requests for the unitization of coalbed methane wells, pools, and fields;

(b) Promulgate and enforce administrative regulations and rules necessary to govern the practice and procedure before the review board;

(c) Make relevant investigations of records and facilities as it deems proper in connection with ruling on any objections to a proposed coalbed methane well, its location, the proposed stimulation, or the proposed completion; and

(d) Issue subpoenas for the attendance and sworn testimony from witnesses and subpoenas duces tecum for the production of any books, records, maps, charts, diagrams, electronic data, and other pertinent documents or data in the review board's own name or at the request of any party.

SECTION 13. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) The department shall notify the review board of the objection, request, or appeal as set forth in subsection (1) of Section 12 of this Act and schedule a time and place for a hearing.

(2) Notice of the hearing shall be given not less than fifteen (15) days in advance of the hearing to the applicant and all other parties as required under Section 4, 14, or 17 of this Act, as applicable. The hearing of the review board shall be held within thirty (30) days after the filing of the objection, request or appeals or as soon thereafter as the review board can be assembled.

(3) All proceedings before the review board shall be conducted in accordance with KRS Chapter 13B.

(4) With respect to any objection filed pursuant to Section 3 of this Act concerning the proposed coalbed methane well, or its location, stimulation or completion, appeals arising under subsection (5) of Section 4 of this Act, or requests for a hearing arising under this chapter, the review board shall make a determination as to whether a permit shall be issued by the department and any conditions to be included within the permit, which determination and order shall be consistent with the intent and purposes of KRS Chapters 350 and 352 and this chapter, taking into consideration the following factors that it considers applicable in the particular proceeding:

(a) The declaration of public policy and legislative findings as set forth in this chapter;

(b) Whether the proposed coalbed methane well can be drilled safely, taking into consideration the dangers from creeps, squeezes or other disturbances due to the extraction of coal;

(c) The feasibility of moving the proposed drilling location to another location;

(d) Whether any stimulation of the workable coalbed will have a significant adverse affect on the mineability of that workable coalbed or any other workable coalbeds within five hundred (500) of the proposed coalbed methane well to be stimulated or within the five hundred (500) foot horizontal radius and fifty (50) vertical feet above or below the workable coalbed proposed to be stimulated or impair mine safety;

(e) Whether the drilling location is above or in close proximity to any mine opening, shaft, entry, travelway, airway, haulageway, drainageway or passageway, or to any proposed extension thereof, any abandoned, operating coal mine or any coal mine already surveyed and platted but not yet being operated;

(f) Whether the proposed drilling can reasonably be done through an existing or planned pillar of coal, or in close proximity to an existing or planned pillar of coal, taking into consideration the surface topography;

(g) The extent to which the proposed drilling location interferes with the safe recovery of coal or coalbed methane;

(h) The extent to which the proposed drilling location will unreasonably interfere with present or future coal mining operations;

(i) The technology and methods proposed for the safe and efficient recovery of coal and coalbed methane;

(j) The practicality of locating the coalbed methane well out of a uniform pattern with other wells;

(k) The surface topography and use; and

(l) Any other factor the review board determines would be considered consistent with KRS Chapters 350 and 352 and this chapter.

(5) Upon consideration of the matters raised at the hearing, the review board shall render a decision based upon the ability to mine any affected workable coalbed safely and the protection of any workable coalbed for safe future mining, shall enter a written order containing findings of fact and conclusions which address any relevant considerations in subsection (4) of this section, and based thereon shall issue and file with the department a written order directing it to:

(a) Refuse to issue a coalbed methane well permit;

(b) Issue a permit for the proposed coalbed methane well location and any conditions to be included within the permit;

(c) Issue a coalbed methane well permit and any conditions to be included within the permit for an alternate drilling location different from that requested by the applicant; or

(d) Issue a permit authorizing the applicant to stimulate the coalbed methane well in the absence of an agreement of the affected coal interest holders as described in subsection (1) of Section 9 of this Act, as proposed or as modified by the order of the review board.

(6) With respect to any request for a hearing pursuant to Section 5 of this Act by a coalbed interest holder, or any record oil or gas lessor or lessee of any tract being penetrated by a coalbed methane well, to determine whether the well has been abandoned and should be plugged in accordance with this chapter, the review board shall make a determination as to whether the coalbed methane well should be plugged, which determination and order shall be consistent with the intent and purposes of KRS Chapters 350 and 352 and this chapter, taking into consideration the following factors that it considers applicable in the particular proceeding:

(a) Whether the coalbed methane well has ceased to produce in paying quantities, and no dewatering operations are being conducted, for a period of fifteen (15) consecutive months;

(b) Whether the coalbed methane well is being temporarily shut in by the coalbed methane well operator; and

(c) Any other factor the review board determines should be considered consistent with this section.

(7) Upon consideration of the matters raised at the hearing, the review board shall render a decision based upon whether the coalbed methane well has been abandoned and should be plugged in accordance with this chapter; shall enter a written order containing findings of fact and conclusions which address any relevant consideration in subsection (6) of this section based thereon; and shall issue and file with the department a written order directing the department to:

(a) Require the coalbed methane well operator to plug and abandon the well;

(b) Allow the coalbed methane well operator to continue to operate and produce the well; or

(c) Allow the coalbed methane well operator to continue to shut in the coalbed methane well on a temporary basis.

(8) Upon receipt of the review board order, the department shall promptly undertake the action directed by the review board, provided that all other provisions of this chapter have been complied with.

SECTION 14. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) In order to prevent the waste of coalbed methane or to protect the correlative rights of the owners of coalbed methane, the review board on its own motion or upon application of an operator of a coalbed methane well or owner of coalbed methane shall have the power to establish or modify drilling units, establish or modify field rules, or unitize coalbed methane wells, pools or fields. Drilling units, to the extent reasonably possible, shall be of uniform shape and size for an entire pool or field. Any operator of a coalbed methane well or owner of coalbed methane may apply to the review board for the creation or modification of drilling units, the establishment or modification of field rules for a pool or field, and the unitization of any coalbed methane wells, pools, or fields.

(2) With respect to any request for the creation or modification of drilling units, establishment or modification of field rules for the pool or field, and the unitization of any coalbed methane wells, pools, or fields, the review board shall grant or deny the request and issue an order consistent with the intent and purposes of KRS Chapters 350 and 352 and this chapter, taking into consideration the following factors that it considers applicable in the particular proceedings:

(a) The area which may be drained efficiently and economically by the proposed coalbed methane well or wells and the spacing requirements of Section 15 of this Act;

(b) The plan of development for the coal, that drilling units conform to mine development plans, and the need for proper ventilation of any mines or degasification of any affected coal seams;

(c) The nature and character of any coal seam or seams which will be affected by the coalbed methane well or wells;

(d) The surface topography and mineral boundaries of the lands underlaid by the coal seams to be included in the unit;

(e) Evidence relevant to the proper boundary of the drilling unit;

(f) The nature and extent of ownership of each coalbed methane owner or claimant and whether conflicting claims exist;

(g) Whether the applicant for the drilling unit proposes to be the operator of the coalbed methane well within the drilling unit; and if so, whether the applicant has a lease or other agreement from the owners or claimants of a majority interest in the proposed drilling unit;

(h) Whether a disagreement exists among the coalbed methane owners or claimants over the designation of the operator for any coalbed methane well within the drilling unit; and if so, relevant evidence to determine which operator can properly and efficiently develop the coalbed methane within the drilling unit for the benefit of the majority of the coalbed methane owners;

(i) If more than one person is interested in operating a coalbed methane well within the drilling unit, the estimated cost of submitting by each such person for drilling, completing, operating and marketing the coalbed methane from any proposed coalbed methane well or wells;

(j) Any other available geological or scientific data pertaining to the pool which is proposed to be developed;

(k) The correlative rights of the operators and owners of coalbed methane, so that each operator and owner may obtain his or her just and equitable share of production from the coalbed methane; and

(l) Any other factor the review board determines should be considered consistent with KRS Chapters 350 and 352, and this chapter.

(3) Upon consideration of the matters raised at the hearing, the review board shall render a decision based upon whether to establish or modify a drilling unit, establish or modify field rules or establish or modify the unitization of coalbed methane wells, pools or fields. The review board shall enter a written order containing findings of fact and conclusions which address any relevant considerations in subsection (2) of this section and based thereon shall issue and file with the department a written order:

(a) Establishing or modifying a drilling unit, field rules or unitizing coalbed methane wells, pools or fields;

(b) Refusing to establish or modify a drilling unit, field rules or unitization of coalbed methane wells, pools or fields; or

(c) Attaching certain conditions to the establishment or modification of a drilling unit, field rules, or unitization of coalbed methane wells, pools or fields.

(4) In establishing or modifying a drilling unit for coalbed methane wells, and in order to accommodate the unique characteristics of coalbed methane development, the review board may require that drilling units conform to the mine development plan, if any. If requested by the coal interest holder, well locations and spacing shall correspond with mine operations, including the drilling of multiple coalbed methane wells on the same surface location of each drilling unit.

(5) If an order to establish or modify a drilling unit, field rules or unitization of coalbed methane wells, pools or fields will allow a coalbed methane well to be drilled into or through a workable coalbed, any coal interest holder and any record oil and gas lessor and lessee within the area to be covered by the drilling unit, field rules or unitization of coalbed methane wells, pools or fields may object to the establishment or modification of the drilling unit, field rules or unitization of coalbed methane wells, pools or fields.

(6) The review board may continue a hearing to allow for further investigation and the gathering and taking of additional data and evidence. If at any time during a hearing there is not sufficient evidence for the review board to determine field boundaries, or drilling unit size or shape, the review board may enter a temporary order establishing provisional drilling units, and field boundaries for the orderly development of the pool or field, pending receipt of the information necessary to determine the ultimate pool or field boundaries, and spacing of wells for the pool or field. Upon additional findings of fact, the boundaries of a pool or field and drilling units for the pool or field may be modified by the review board.

(7) Unless otherwise provided for by the review board, after an application for a hearing to establish or modify drilling units or pool boundaries has been filed, no additional wells shall be permitted in the pool or field until the review board's order establishing or modifying the pool or field or unit has been entered.

(8) After the review board issues a field or pool spacing order which creates drilling units or a pattern of drilling units for a pool or field, should an operator or owner of coalbed methane apply for a permit or otherwise indicate a desire to drill a coalbed methane well outside of such drilling units or pattern of drilling units and thereby potentially extend the pool or field, the review board may, on its own motion or the motion of any interested person, require that the coalbed methane well be located and drilled in compliance with the provisions of the order affecting the pool or field.

SECTION 15. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

Except as provided in Section 14 of this Act, or pursuant to voluntary pooling, no permit shall be issued for a coalbed methane well unless the proposed location of a vertical well shall be at least seven hundred fifty (750) feet horizontally from the nearest mineral boundary upon which the well is to be drilled and the proposed location shall be at least one thousand five hundred (1,500) feet horizontally from the nearest coalbed methane well, unless the department orders that a different spacing distance shall apply. Spacing distances for coalbed methane horizontal wells shall be separately established by the department pursuant to this subchapter.

SECTION 16. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Whenever an applicant proposes to drill, deepen, convert, or reopen a well for purposes of production of coalbed methane and the ownership of the right to produce coalbed methane is in dispute, the department shall refer the application to the review board for its consideration and the issuance of appropriate pooling orders, if any, in accordance with Section 17 of this Act. Upon the issuance of a pooling order by the review board, and if all other provisions of this chapter are complied with the department shall issue a permit to drill, deepen, convert, or reopen the well and require the development and operation of all pooled tracts and interests as a single leasehold estate in accordance with the pooling order.

(2) No pooling as permitted by this section shall be ordered except:

(a) When an application has been filed to drill, deepen, or reopen a well within the distance limitations prescribed in Section 15 of this Act; or

(b) A request for pooling has been made pursuant to this section or Section 17 of this Act.

(3) No pooling, as permitted by this section, shall be ordered with respect to any tract or portion thereof upon which a well is drilled, deepened, or converted or reopened:

(a) Unless the pooling was requested prior to the commencement of the drilling, deepening, converting, or reopening of the coalbed methane well; and

(b) Unless the request, if made by the owner of an operating interest who elects to participate in the risk and cost of the drilling, deepening, converting, or reopening of the coalbed methane well, is accompanied by a bond or other security satisfactory to and in an amount set by the review board for the payment of such owner's share of the cost of drilling, deepening, converting, or reopening the well.

(4) Production from any well which is ordered pooled pursuant to this section shall be deemed for all purposes to have been so produced from each tract or portion thereof included in the pool in proportion to the amounts established in the pooling order.

SECTION 17. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) The person requesting a pooling order shall provide to the department a list of all persons reasonably known to own an oil or gas interest and all coal interest holders, in any tract upon which the coalbed methane well will be located from the surface to a depth of one hundred (100) feet below the base of the deepest coal seam to be penetrated. A pooling order shall be made only after the department provides notice to all persons reasonably known to own an oil or gas interest and all coal interest holders in any tract upon which the well will be located and any tract or portion thereof proposed to be pooled in any drilling unit, from the surface to a depth of one hundred (100) feet below the base of the deepest coal seam to be penetrated, after a hearing has been held. After filing an application for a pooling order under subsection (1) of Section 16 of this Act, where unknown or nonlocatable owners exist, or at the request of the permit applicant or person requesting a pooling order, the permit applicant shall publish, at least twenty (20) days prior to the hearing on the application for the pooling order, one (1) notice in the newspaper of the largest circulation in each county in which any tract, or portion thereof, proposed to be pooled is located. The notice shall:

(a) State that an application for a pooling order is being filed with the review board;

(b) Describe any tract, or portion thereof, proposed to be pooled;

(c) In the case of an unknown owner, identify the name of the last known owner;

(d) In the case of a nonlocatable owner, identify the owner and the owner's last known address; and

(e) State that any party claiming an interest in any tract, or portion thereof, proposed to be pooled should contact the permit applicant at the published address and provide a copy of the notification to the review board within twenty (20) days of the date of the publication.

(2) The review board shall grant or deny the request for a pooling order and issue an order consistent with the intent and purposes of KRS Chapters 350 and 352 and this chapter, taking into consideration the following factors that it considers applicable in the particular proceeding:

(a) The area which may be drained efficiently and economically by the proposed coalbed methane well or wells and the spacing requirements of Section 15 of this Act;

(b) The plan of development of the coal and the need for proper ventilation of any mines or degasification of any affected coal seams;

(c) The nature and character of any coal seam or seams which will be affected by the proposed coalbed methane well or wells;

(d) The surface topography and mineral boundaries of the lands underlaid by the coal seams to be included in the unit;

(e) Evidence relevant to the proper boundary of the drilling unit;

(f) The nature and extent of ownership of each coalbed methane owner or claimant and whether conflicting claims exist;

(g) Whether the applicant for the drilling unit proposes to be the operator of the coalbed methane well or wells within the drilling unit; and if so, whether the applicant has a lease or other agreement from the owners or claimants of a majority interest in the proposed drilling unit;

(h) Whether a disagreement exists among the coalbed methane owners or claimants over the designation of the operator for any coalbed methane wells within the unit, and if so, relevant evidence to determine which operator can properly and efficiently develop the coalbed methane within the unit for the benefit of the majority of the coalbed methane owners;

(i) If more than one person is interested in operating a coalbed methane well within the unit, the estimated cost submitted by each such person for drilling, completing, operating, and marketing the coalbed methane from any proposed coalbed methane well or wells;

(j) Any other available geological or scientific data pertaining to the pool which is proposed to be developed;

(k) The correlative rights of the operators and owners of the coalbed methane, so that each operator and owner may obtain his or her just and equitable share of production from the coalbed methane; and

(l) Any other factor the review board determines should be considered consistent with KRS Chapters 350 and 352 and this chapter.

(3) Upon consideration of the matters raised at the hearing, the review board shall render a decision based upon whether to grant a pooling order, and shall enter a written order containing findings of fact and conclusions which address any relevant considerations in subsection (2) of this section and based thereon shall issue and file with the department a written order granting the pooling order with any applicable conditions or denying the pooling order.

(4) A pooling order shall authorize the drilling, deepening, or reopening, and the operation of a well for the production of coalbed methane on the tracts or portions thereof pooled; shall designate the operator to drill and operate the well; shall prescribe the time and manner in which all owners of working interests in the pooled tracts or portions thereof may elect to participate therein; shall provide that all reasonable costs and expenses of drilling, deepening, converting or reopening, and the completing, operating, plugging, and abandoning the well shall be borne, and all production from the well shall be shared, by all owners of working interests in proportion to the net mineral acres in the pooled

tracts owned or under lease to each owner; and shall make provision for the payment of the reasonable and actual cost thereof, including a reasonable charge for supervision, by all those who elect to participate therein.

(5) A pooling order shall establish a procedure for the owner who claims a working interest and who does not decide to become a participating working interest owner to elect to either:

(a) Surrender, by means of sale or lease, the interest to a participating working interest owner on a reasonable basis and for a reasonable consideration, which if not agreed upon shall be one-eighth (1/8) of the production attributable to the well; or

(b) Share in the operation of the well as a nonparticipating working interest owner on a carried basis after the proceeds allocable to his or her share equal to two hundred percent (200%) of the share of the costs allocable to his or her interest.

(6) A coalbed methane owner or claimant whose identity and location remain unknown at the conclusion of the hearing concerning the entry of a pooling order for which public notice was given and whose interest is pooled pursuant to subsection (1) of Section 16 of this Act shall be deemed to have elected to lease the interest to the coalbed methane operator, exclusive of one-eighth (1/8) of the production attributable to the unleased interest, and shall not be entitled to make the election established in subsection (5) of this section.

(7) Except as provided in this section, a coalbed methane owner who does not make an election under the pooling order within thirty (30) days of the entry of the order shall be deemed to have leased the coalbed methane interest to the coalbed methane well operator in the manner established in subsection (6) of this section.

(8) A person whose interest is subject to a coalbed methane lease or other agreement which grants to another the right to operate or conduct operations shall not own an operating interest for the purposes of this section.

(9) A certified copy of any pooling order entered under this section shall be entitled to be recorded in the office of the county clerk of the county or counties in which all or any portion of the pooled tract is located, and the record of the order, from the time of lodging the order for record, shall be notice of the order to all persons.

(10) Each pooling order for a coalbed methane well issued pursuant to subsection (1) of Section 16 of this Act shall provide for the establishment of an interest-bearing escrow account to be maintained by the department. The escrow account shall receive deposits and hold payment for costs and proceeds attributable to the conflicting interests as follows:

(a) Each participating working interest owner, except for the unit operator, shall deposit in the escrow account the owner's proportionate share of the costs allocable to the ownership interest claimed by each participating working interest owner as set forth in the pooling order; and

(b) The unit operator shall collect all proceeds from the sale or use of coalbed methane and deposit in the escrow account all proceeds attributable to the conflicting interests of lessors, lessees, or royalty owners and all proceeds in excess of the recovery of all capital costs and expenses and all ongoing operational expenses including reasonable overhead costs and operating fees attributable to conflicting working interests.

(11) The department shall order payment of principal and accrued interest from the escrow account to all legally entitled entities within thirty (30) days of receipt by the department of notification of the final legal determination of entitlement or upon agreement of all entities claiming an ownership interest in the coalbed methane. Upon the department's final determination:

(a) Each legally entitled participating working interest owner shall receive a proportionate share of the proceeds attributable to the conflicting ownership interest;

(b) Each legally entitled nonparticipating working interest owner shall receive a proportionate share of the proceeds attributable to the conflicting ownership interest, less the cost of being carried as a nonparticipating working interest owner as determined by the election of the person under the applicable pooling order;

(c) Each person leasing or deemed to have leased its coalbed methane ownership interest to the unit operator shall receive a share of the royalty proceeds as set out in the applicable pooling order attributable to the conflicting interests of the lessees;

(d) The unit operator shall receive the costs contributed to the escrow account by each legally entitled participating working interest owner, but only to the extent that the costs and expenses described in subsection (10)(b) of this section have not been recouped from production proceeds;

(e) Each participating working interest owner who is determined not to hold an ownership interest shall receive a refund of all amounts placed in escrow pursuant to subsection (10)(a) of this section plus interest earned thereon; and

(f) All amounts remaining in escrow, after distribution of amounts described in paragraphs (a), (b), (c), (d), and (e) of this subsection, shall be distributed to the legally entitled participating working interest owners in proportion to their interests.

SECTION 18. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Any person aggrieved by any order issued by the review board under this chapter shall have the right to bring a civil action for review of the order by filing a complaint in the Circuit Court of the county in which the premises or any

portion thereof is located as established by the order, or in Franklin Circuit Court.

(2) The civil action shall be brought within thirty (30) days after the order is issued, and in the event no civil action is filed within the thirty (30) day period, the order shall be final.

(3) In any civil action the burden of proof shall be upon the party challenging the order. The order shall be deemed prima facie valid. Any party to the civil action may offer evidence for any part of the record of the hearing which resulted in the order, and any other relevant evidence.

(4) In any civil action no new evidence may be introduced, except as to fraud or misconduct of some person engaged in the hearing before the review board. New evidence may be introduced if, upon motion and for good cause shown, the court determines that the interest of justice will be better served by the introduction of new evidence. The court, sitting without a jury, shall hear the cause upon the record before it. The court shall dispose of the civil action in a summary manner, being limited to determining whether or not: the review board acted without or in excess of its powers; the order was procured by fraud; the order is not in conformity with the provisions of this chapter; the order is clearly erroneous on the basis of reliable, probative, and material evidence contained in the whole record; the order is arbitrary, capricious, characterized by abuse of discretion, or clearly unwarranted exercise of discretion. The court shall enter its findings in the order book as a judgment of the court, and the judgment shall have the effect and be enforceable the same as any other judgment of the court in civil cases.

(5) The practice, pleading, and proceedings in the civil action shall be in accordance with the Rules of Civil Procedure.

(6) During the pendency of the civil action, the court may stay the order until it shall enter its decree. The court shall have jurisdiction to enter a decree affirming or setting aside the order, or remand the cause with directions to modify the order to conform to the provisions of this chapter. Appeals may be taken by any party to the suit in the same manner and to the same extent as in other civil actions.

SECTION 19. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) A coalbed methane well penetrating one (1) or more workable coalbeds shall be drilled in a manner that will exclude, if practicable, all coalbed methane or coalbed methane pressure from the workable coalbed, except as is found in the workable coalbed itself. Each string of casing that is run through a workable coalbed shall be seated at least thirty (30) feet below the workable coalbed in twenty (20) feet of cement, mud, clay, or other nonporous material that will make an effective seal. If a second workable coalbed is found less than thirty (30) feet below the first workable coalbed, the casing shall be seated and mudded off as above provided at least thirty (30) feet below the second workable coalbed. If gas is found between the two (2) workable coalbeds, it shall be treated as prescribed by this chapter. After any such string of casing has been properly seated, drilling may proceed immediately.

(2) When a coalbed methane well is drilled through the horizon of a workable coalbed where the coal has been removed, the hole shall be drilled at least thirty (30) feet below the workable coalbed, and shall be of a size sufficient to permit the placing of a liner, which shall start not less than twenty (20) feet beneath the horizon of the workable coalbed and extend not less than twenty (20) feet above it. The largest sized casing to be used in the well shall be centrally placed within this liner. The liner may be welded to the casing to be used, and the space between the liner and the casing shall be filled with cement as the liner and casing are lowered into the hole. Cement shall be placed in the bottom of the hole to a depth of twenty (20) feet to form a sealed seat for both liner and casing. Following the setting of the liner, drilling may proceed. If it is necessary to drill through the horizon of two (2) or more workable coalbeds where the coal has been removed, the liner shall be started not less than twenty (20) feet below the lowest horizon penetrated and shall extend to a point not less than twenty (20) feet above the highest horizon penetrated.

SECTION 20. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

If any coalbed methane well produces coalbed methane, all coal-protecting strings of casing shall remain in place during the life of the well. The top ends of all the strings shall be provided with casing heads or other suitable devices that will allow the free passage of coalbed methane and prevent filling the annular spaces outside the casing with dirt or debris.

SECTION 21. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) No person shall abandon or remove casings from any coalbed methane well, either dry or producing, without first plugging the well in a secure manner approved by the department and consistent with administrative regulations. Upon the department's plugging of an abandoned coalbed methane well in accordance with the requirements of this subsection, the department may sell all equipment removed from that well by sealed bid, or may include the equipment as part of compensation in the contract for the plugging of the well. Proceeds from the sale shall be deposited into the coalbed methane well plugging fund, established in subsection (3) of Section 24 of this Act.

(2) Not less than thirty (30) days before advertising for bids for the plugging of coalbed methane wells, the department shall publish, in a newspaper of general circulation, and in locally published newspapers serving the areas in which the wells proposed for plugging are located, notices of all wells on which there is salvageable equipment, described as to farm name, Carter Coordinate, and state plane coordinate location, for which the department intends to seek bids for plugging. If a person other than the operator claims an interest in the equipment of a well proposed for plugging, the person shall provide documentation of that interest to the department within thirty (30) days of the date of publication of the notice of the department's intent to plug a well. Prior to the department's advertising of bids for the plugging of a well, the department shall release the well's equipment to the person deemed to have an interest in that

equipment. It shall be the duty of the interest holder to remove the equipment before the well is plugged. If documentation as to an asserted interest is not provided to the department in the manner described in this subsection or if a person deemed to be an interest holder fails to remove the equipment before a well is plugged, the department may sell or otherwise dispose of the equipment in accordance with this section.

(3) If a person fails to comply with subsection (1) of this section, any person lawfully in possession of land adjacent to the coalbed methane well or the department may enter on the land upon which the well is located and plug the well in the manner provided in subsection (1) of this section, and may maintain a civil action against the owner or person abandoning the well, jointly or severally, to recover the cost of plugging the well. This subsection shall not apply to persons owning the land on which the well is situated, and drilled by other persons.

SECTION 22. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) The department shall exercise supervision over the drilling, casing, plugging, and filling of all coalbed methane wells. The department shall exercise supervision over all mining operations in close proximity to any well. The department shall have access to the records and properties of coal, oil, gas and coalbed methane operators when necessary.

(2) The department may receive, or may file on its own motion, formal complaints that drilling or mining operations are being conducted contrary to the provisions of this chapter or to the order of the department or review board, and shall hold administrative hearings on the complaints, in accordance with KRS Chapter 13B. Following a hearing, the department shall issue a final order necessary to secure the proper administration of this chapter.

SECTION 23. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) The department is hereby authorized to adopt all rules, administrative regulations, and amendments to implement the provisions of this chapter. All rules, administrative regulations, and amendments promulgated under this chapter shall be promulgated by the department after notice and a hearing. At all hearings held to consider any rules, administrative regulations, or amendments thereto, any interested person shall be entitled to be heard.

(2) All hearings shall be held at a time and place as is specified by the department according to rules and regulations promulgated under this chapter. A written record of each hearing shall be kept; however, if not at variance with KRS 61.870 to 61.884, the keeping of a record may be waived by all parties who participate therein. All interested persons shall be entitled to be heard at all hearings conducted under this chapter.

(3) Operators shall submit annual production information for each coalbed methane well on a form prescribed by the department.

SECTION 24. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) When any person submits to the department an application for a permit to drill a coalbed methane well, or to reopen, deepen, or temporarily abandon any coalbed methane well which is not covered by a surety bond, the department shall, except as provided in this section, require from the well operator a bond in the sum of five thousand dollars ($5,000). The bonds shall be made in favor of the Department of Natural Resources, conditioned that the wells upon abandonment shall be plugged in accordance with the administrative regulations and that all records required by the department be filed as specified. All bonds shall remain in effect until the plugging of the well is approved by the department, or the bond is released by the department. Any well operator in lieu of the bond may file with the department a blanket bond in a sum of one hundred thousand dollars ($100,000), covering all coalbed methane wells drilled or to be drilled in the Commonwealth by the principal in the bond, and the acceptance and approval by the department of the blanket bond shall be in full compliance with the above provision requiring an individual well bond. A deposit in cash or a bank-issued irrevocable letter of credit may serve in lieu of either of the individual well or blanket bonds. A certificate of deposit, the principal of which is pledged in lieu of a bond and whose interest is payable to the party making the pledge, may also be accepted by the department. If an operator is required to post individual well bonds exceeding a total of five thousand dollars ($5,000) or elects to post a blanket bond, the certificate of deposit shall be accepted by the department in lieu of that portion of the amount of the bonds exceeding five thousand dollars ($5,000). The bond or bonds referred to in this section shall be executed by the well operator as principal and, if a surety bond, by a corporate surety authorized to do business in the Commonwealth. A deposit in cash shall serve in lieu of either of the above bonds; all cash bonds accepted by the department shall be deposited into an interest-bearing account, with the interest thereon payable to the special agency account known as the coalbed methane well plugging fund, created in subsection (3) of this section, to be used in accordance with the purposes described therein.

(2) A successor to the well operator shall post bond, pay a twenty-five dollar ($25) fee per well to the department, and notify the department in writing in advance of commencing use or operations of a well or wells. The successor shall assume the obligations of this chapter as to a particular well or wells and relieve the original permittee of responsibility under this chapter with respect to the well or wells. It shall be the responsibility of the selling operator to require the successor operator to post bond before use or operation is commenced by the successor and relief of responsibility under this chapter is granted to the original permittee.

(3) All sums received through the forfeiture of bonds shall be placed in the State Treasury and credited to a special agency account to be designated as the coalbed methane well plugging fund, which shall be in an interest-bearing account with the interest thereon payable to the fund. This fund shall be available to the department and shall be expended for the plugging of any abandoned coalbed methane wells coming within the authority of the department pursuant to this

chapter. The plugging of any coalbed methane wells pursuant to this subsection shall not be construed to relieve the operator or any other person from civil or criminal liability which would exist except for the plugging. Any unencumbered and any unexpended balance of this fund remaining at the end of any fiscal year shall not lapse but shall be carried forward for the purpose of the fund until expended or until appropriated by subsequent legislative action.

SECTION 25. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Any person to whom a permit is issued pursuant to this chapter shall file, within ninety (90) days after termination of operations conducted under the permit, with the department for transmittal to the Kentucky Geological Survey on forms to be furnished by the department the following information relating to the well:

(a) A copy of the driller's log certified to be true and accurate;

(b) The depth and thickness of all water zones encountered and logged;

(c) The depth of all showing of oil, gas, or coalbed methane;

(d) The depth and thickness of all coal seams encountered; and

(e) A true copy of all electrical surveys and similar logs and surveys taken. If the person to whom the permit is issued obtains a copy of the electrical survey or similar log or survey in electronic form, the operator shall submit the electrical survey or similar log in electronic form if requested by the department.

(2) Upon request by the department, any person to whom a permit is issued shall save for the Kentucky Geological Survey samples of all cuttings from the well drilled or deepened pursuant to the permit for a period of ninety (90) days after completion thereof.

(3) Upon request by any person furnishing information under this section, the information shall be kept confidential, for a period of one (1) year after the information is furnished by such person.

(4) This section shall not apply to wells drilled or deepened as geological or structure test holes.

SECTION 26. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

All applicants for coalbed methane wells shall comply with all of the requirements of KRS 353.5901 and 353.595.

SECTION 27. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Each coalbed methane well permit issued under this chapter shall expire one (1) year after the date issued, unless the drilling, deepening, or reopening of a coalbed methane well is commenced prior to the expiration of the one (1) year period. However, the permit term shall be extended by one (1) year if, prior to the expiration date, the permit applicant:

(a) Notifies the department in writing of the applicant's request for an extension;

(b) Notifies all coal interest holders originally entitled to receive a copy of the plat under Section 3 of this Act;

(c) Submits an affidavit, or verified statement, stating that the information in the original permit application is still correct; and

(d) Submits a fee for the extension in an amount equal to the permit fee required by Section 8 of this Act.

(2) The extension of the permit term pursuant to subsection (1) of this section shall not create a right to object to the coalbed methane well location under Section 4 of this Act nor to mediation under KRS 353.5901.

SECTION 28. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

In any case where title to subsurface minerals has been severed in such a way that title to natural gas underlying the tract and title to coal underlying the tract are in different persons, it shall be an affirmative defense to any action for willful trespass arising from the drilling, development, operation, and production of coalbed methane from any coal seam or gob area underlying the tract, that the operator of the coalbed methane well permitted, drilled, completed, and produced the coalbed methane well under color of title of any instrument, deed, or lease for oil and gas purposes from the gas owner, or any instrument, deed, or lease for coal mining purposes from the coal owner.

SECTION 29. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Whenever it appears that a person is violating or threatening to violate any provision of this chapter, or any rule, administrative regulation, or order promulgated or issued under this chapter, the department may bring suit against the person in the Circuit Court of the county where the violation occurred or is threatened, the Circuit Court in the county in which the defendant resides or in which any defendant resides if there is more than one (1) defendant, or the Franklin Circuit Court to restrain the person from continuing the violation or from carrying out the threatened violation. In the suit, the court shall have jurisdiction to grant without bond or other undertaking the prohibitory or mandatory injunction as the facts may warrant, including a temporary restraining order or injunction.

(2) Whenever it appears that any person is violating any provision of this subchapter, or any rule, administrative regulation or order promulgated or issued hereunder, the Attorney General or any person who is adversely affected by the violation may bring suit to restrain the violation in any court in which the department might have brought suit. The department shall be made a party defendant in the suit in addition to the person allegedly violating a provision or any rule, administrative regulation, or order promulgated or issued under this chapter.

SECTION 30. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Nothing in this chapter shall be construed as affecting, in any way, the right of any person to enforce or protect, under applicable law, his or her interest in water resources affected by a coalbed methane well or related operations.

(2) The operator of a coalbed methane well shall replace the water supply of an owner of an interest in real property who obtains all or part of his or her supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source where the supply has been affected by contamination, diminution, or interruption proximately resulting from the operation of a coalbed methane well.

SECTION 31. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Any person who violates any provision of this chapter shall be subject to a fine of not more than one thousand dollars ($1,000) or imprisonment for a term not exceeding one hundred eighty (180) days, or both.

(2) Any person who continues to violate any provision of this chapter, or any administrative regulation or order promulgated or issued under this chapter after being notified in writing of the violation by the department, shall be subject to a fine of not more than one thousand dollars ($1,000) or imprisonment for a term not exceeding one hundred eighty (180) days, or both.

(3) Any person who does any of the following for the purpose of evading or violating this chapter or any administrative regulation or order promulgated or issued under this chapter shall be subject to a fine of not more than one thousand dollars ($1,000) or imprisonment for a term not exceeding one hundred and eighty (180) days, or both:

(a) Makes or causes to be made a false entry or statement in a report, record, account, or memorandum, required by this chapter, or by any administrative regulation or order under this chapter;

(b) Omits or causes to be omitted from a report, record, account, or memorandum full, true, and correct entries and information as required by this chapter, or by any administrative regulation or order under this chapter; or

(c) Removes from this Commonwealth or destroys, mutilates, alters, or falsifies a report, record, account, or memorandum required by this chapter, or by any administrative regulation or order.

(4) Any person who knowingly aids or abets any other person in the violation of any provision of this chapter, or any administrative regulation or order promulgated or issued under this chapter, shall be subject to the same penalty as that prescribed in this section for the violation by the other person.

SECTION 32. A NEW SECTION OF KRS CHAPTER 349 IS CREATED TO READ AS FOLLOWS:

(1) Nothing in this chapter shall be construed to preclude any coal interest holder from removing support of the surface and any structure or facilities thereon and other strata as such rights may exist in any severance deed or other contract.

(2) Nothing in this chapter is intended to or shall be construed as superseding, impairing, abridging, or affecting any specific contractual rights or obligations now or hereafter existing between the respective owners of coal, oil, gas, or other minerals, or any interests therein.

(3) Nothing in this chapter shall be construed to, or be used or interpreted to, determine ownership.

(4) Nothing in this chapter shall be construed to, or be used or interpreted to, apply to any well otherwise permitted, approved, or regulated under KRS Chapter 353 except for the wells that are to be converted to or operated as coalbed methane wells.

(5) Nothing in this chapter shall be construed to authorize any limitation of production of coalbed methane from any coalbed methane well, lease, drilling unit, pool, field, or property to prevent or control economic waste or to limit production to market demand.

(6) This chapter shall be liberally construed so as to effectuate the declaration of public policy set forth in Section 1 of this Act.

(7) Coalbed methane wells shall not be subject to the provisions of KRS Chapter 353, except as expressly provided in this chapter.

HB 539, AN ACT relating to the official theatre pipe organ of Kentucky.

WHEREAS, the Kentucky Theatre's Mighty Wurlitzer theatre pipe organ is the sole remaining theatre pipe organ originally installed in a theatre in the Commonwealth; and

WHEREAS, the theatre organ is a uniquely American musical invention, designed and constructed to provide sound accompaniment in the silent era of motion pictures; and

WHEREAS, between 1910 and the 1930s, there were nearly 7,000 theatre organs across the United States performing each day for motion pictures; and

WHEREAS, soon after sound came to motion pictures, these theatre organs were abandoned, discarded, given away, or left to languish dormant in their theatres, leaving at the present time approximately 125 theatre organs in public venues nationally; and

WHEREAS, the Kentucky Theatre's Wurlitzer organ was initially installed in 1922 and, when it was enlarged in 1926, was described as the "largest theatre organ in the South"; and

WHEREAS, in 1994, the Kentucky's Mighty Wurlitzer Theatre Organ Project, Inc., a not-for-profit, tax-exempt Kentucky corporation consisting of private citizens and representatives of the University of Kentucky and the Lexington Fayette Urban-County Government, was established to renovate and reinstall the three-manual fourteen-rank (sets of pipes) theatre organ in the Kentucky Theatre; and

WHEREAS, on June 25, 1999, the National Trust for Historic Preservation designated the Kentucky Theatre's Mighty Wurlitzer theatre pipe organ as an Official Project of "Save America's Treasures"; and

WHEREAS, upon completion of the restoration of the organ and its reinstallation in the Kentucky Theatre, the glorious, majestic sounds of the most powerful musical instrument ever produced will once again thrill Kentuckians in such events as daily mini-concerts between movies, an annual concert subscription series, and educational curriculum programs with area schools and universities;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The Kentucky Theatre's Mighty Wurlitzer Theatre Pipe Organ located in Lexington is the official theatre pipe organ of the Commonwealth of Kentucky.

SB 161, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.065 is amended to read as follows:

(1) The secretaries of the Justice Cabinet, the Education, Arts, and Humanities Cabinet, the Natural Resources and Environmental Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development, the Public Protection and Regulation Cabinet, the Cabinet for Health Services, the Cabinet for Families and Children, the Finance and Administration Cabinet, the Revenue Cabinet, the ***Commerce***[~~Tourism Development~~] Cabinet, the Labor Cabinet, the Personnel Cabinet, the Governor's Executive Cabinet, the state budget director, the Governor's chief of staff, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman, and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.

(2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform other duties the Governor may require of them.

(3) The cabinet shall consider matters involving policies and procedures the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

Section 2. KRS 11.182 is amended to read as follows:

(1) The membership of the commission shall consist of ***forty-six (46)***[~~forty-eight (48)~~] members who have the resources to accomplish the goals set forth in Kentucky's Appalachian Development Plan created under KRS 11.180(1).

(a) Ex-officio members shall be: the Governor; secretary of the Governor's Executive Cabinet; secretary of the Cabinet for Economic Development; secretary of the Transportation Cabinet; secretary of the Natural Resources and Environmental Protection Cabinet; secretary of the ***Commerce***[~~Tourism Development~~] Cabinet;[~~ secretary of the Cabinet for Families and Children;~~] secretary of the Cabinet for Health Services;[~~ secretary of the Cabinet for Workforce Development;~~] secretary of the Education, Arts, and Humanities Cabinet; commissioner of the Department of Agriculture; president of the Council on Postsecondary Education; president of the Kentucky Community and Technical College System; commissioner of the Department of Education; commissioner of the Department for Local Government; executive director of the Kentucky Housing Corporation; Governor's alternate to the Appalachian Regional Commission; president of Morehead State University; executive director of the University of Kentucky Appalachian Center; director of the Center for Kentucky Rural Economic Development; state director of Rural Development of the United States Department of Agriculture; executive director of the East Kentucky Corporation; chair of the Kentucky Appalachian Advisory Council's steering committee; and two (2) vice chairs of the Kentucky Appalachian Advisory Council's Steering Committee.

(b) Members appointed by the Governor shall be:

1. A county judge/executive, mayor, executive director of an area development district, president of a community college, member of the House of Representatives, member of the Senate, and member of the state's judicial branch, all of whom shall be currently serving in the Appalachian region of the Commonwealth. The members who are a representative, a senator, and a representative of the judicial branch shall serve in a nonvoting capacity;

2. Nine (9) at-large members; and

3. One (1) member representing the Community Action Agencies of Appalachian Kentucky.

(c) Members appointed by and representing certain entities shall be: two (2) members of the Kentucky Appalachian Advisory Council; one (1) member of the University of Kentucky Office of Management and Budget; one (1) member from the Christian Appalachian Project; one (1) member appointed by the United States Representative from the Fifth Congressional District; and one (1) member appointed by the East Kentucky Leadership Foundation's board of directors.

(2) Members listed in subsection (1)(a) and (b)1. of this section shall serve during their terms of office or appointment. Members listed in subsection (1)(b)2., (1)(b)3., and (1)(c) of this section shall serve four (4) year staggered terms and may be reappointed.

(3) Members of the commission who are not state employees shall receive reimbursement for actual and necessary expenses incurred in the performance of their duties.

(4) Each member of the commission may designate in writing over his signature an alternate with full authority, in the absence of the designating member for any reason, to attend any properly convened meeting of the commission and to participate in the consideration of any business and transactions of the commission. Any designation of an alternate may, in the discretion of the designating member, be limited to be effective only for a designated meeting or only for specified business. An alternate shall not be entitled to vote upon any business or transactions of the commission.

Section 3. KRS 11.200 is amended to read as follows:

(1) There is created the Commission on Small Business Advocacy. The commission shall be a separate administrative body of state government within the meaning of KRS 12.010(8).

(2) It shall be the purpose of the Commission on Small Business Advocacy to:

(a) Address matters of small business as it relates to government affairs;

(b) Promote a cooperative and constructive relationship between state agencies and the small business community to ensure coordination and implementation of statewide strategies that benefit small business in the Commonwealth;

(c) Coordinate and educate the small business community of federal, state, and local government initiatives of value and importance to the small business community;

(d) Create a process by which the small business community is consulted in the development of public policy as it affects their industry sector;

(e) Aid the small business community in navigating the regulatory process, when that process becomes cumbersome, time consuming, and bewildering to the small business community; and

(f) Advocate for the small business, as necessary when regulatory implementation is overly burdensome, costly, and harmful to the success and growth of small businesses in the Commonwealth.

(3) The Commission on Small Business Advocacy shall consist of thirty-one (31) members:

(a) The Governor, or the Governor's designee;

(b) The secretaries of the following cabinets, or their designees:

1. Economic Development;

2. Natural Resources and Environmental Protection;

3. Revenue; and

4. Transportation;

(c) The state director of the Small Business Development Centers in Kentucky;

(d) One (1) representative of each of the following organizations, appointed by the Governor from a list of three (3) nominees submitted by the governing bodies of each organization:

1. Associated Industries of Kentucky;

2. National Federation of Independent Business;

3. Kentucky Chamber of Commerce;

4. Kentucky Federation of Business and Professional Women's Club, Inc.;

5. Kentucky Retail Federation;

6. Professional Women's Forum;

7. Kentuckiana Minority Supplier Development Council;

8. Greater Lexington Chamber of Commerce;

9. Lexington chapter of the National Association of Women Business Owners;

10. Greater Louisville, Inc.;

11. Louisville chapter of the National Association of Women Business Owners;

12. Northern Kentucky Chamber of Commerce, Inc.;
13. Northern Kentucky - Greater Cincinnati chapter of the National Association of Women Business Owners;
14. Kentucky Association of Realtors;
15. Henderson - Henderson County Chamber of Commerce;
16. Kentucky Coal Council;
17. Kentucky Farm Bureau Federation; and
18. Kentucky Homebuilders Association;

(e) One (1) representative from small business from each of the following areas, appointed by the Governor:

1. A city of the second class;
2. A city of the third class;
3. A city of the fourth class; and
4. A city of the fifth class;

(f) One (1) representative who is a small business owner served by each of the following organizations, appointed by the Governor:

1. The Center for Rural Development; and
2. Community Ventures Corporation; and

(g) One (1) representative who is a small business owner under the age of thirty-five (35), appointed by the Governor.

(4) The terms of all members appointed by the Governor shall be for four (4) years, except that the original appointments shall be staggered so that seven (7) appointments shall expire at two (2) years, seven (7) appointments shall expire at three (3) years, and seven (7) appointments shall expire at four (4) years from the dates of initial appointment.

(5) The Governor shall appoint the chair and vice chair of the commission from the list of appointed members.

(6) The commission shall meet quarterly and at other times upon call of the chair or a majority of the commission.

(7) A quorum shall be a majority of the membership of the commission.

(8) Members of the commission shall serve without compensation but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the commission, subject to Finance and Administration Cabinet administrative regulations.

(9) ***The secretary of the Commerce Cabinet***[~~There shall be an executive director, who~~] shall be the administrative head and chief executive officer of the commission[~~, recommended by the commission and appointed by the Governor~~]. The ***secretary***[~~executive director~~] shall have authority to hire staff, contract for services, expend funds, and operate the normal business activities of the commission.

(10) The Commission on Small Business Advocacy shall be an independent agency attached to the ***Commerce Cabinet***[~~Office of the Governor~~].

Section 4. KRS 11.515 is amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council to advise the chief information officer on issues relating to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of twenty-six (26) members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;
2. The secretaries of the Cabinet for Health Services and of the Cabinet for Families and Children or their designees;
3. The director of the Kentucky Geological Survey or his designee;
4. The secretary of the Revenue Cabinet or his designee;
5. The chief information officer or her or his designee;
6. The secretary of the Economic Development Cabinet or his designee;

7. The commissioner of the Department for Local Government or his designee;
8. The secretary of the Justice Cabinet or his designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;
10. The adjutant general of the Department of Military Affairs or his designee;
11. The commissioner of the Department of Education or his designee;
12. The secretary of the Natural Resources and Environmental Protection Cabinet or his designee;
13. The Commissioner of the Department of Agriculture or his designee;
14. The secretary of the Public Protection and Regulation Cabinet or his designee;
15. The secretary of the ***Commerce***[~~Tourism Development~~] Cabinet or his designee;
16. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;
17. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;
18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;
19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;
20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;
21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers;
22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and
23. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that have, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have, directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have, substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise; or

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting

privileges at council meetings.

Section 5. KRS 11.5163 is amended to read as follows:

(1) The chief information officer shall establish and implement a statewide public safety interoperability plan. This plan shall include the development and recommendation of architecture and standards that will insure that new or upgraded Commonwealth public safety communications systems will interoperate. The chief information officer shall provide direction, stewardship, leadership, and general oversight of information technology and information resources. The chief information officer shall report by September 15 annually to the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection and the Interim Joint Committee on State Government on progress and activity by agencies of the Commonwealth to comply with standards to achieve public safety communications interoperability.

(2) The Kentucky Wireless Interoperability Executive Committee shall serve as the advisory body for all wireless communications strategies presented by agencies of the Commonwealth. The committee shall be responsible for the evaluation and recommendation of all wireless communications architecture, standards, and strategies presented by state agencies, and shall forward these to the chief information officer for final approval.

(3) The Kentucky Wireless Interoperability Executive Committee shall consist of twenty-one (21) members as follows:

(a) A person knowledgeable in the field of wireless communications appointed by the chief information officer who shall serve as chair;

(b) The executive director of the Office for Infrastructure Services, Governor's Office for Technology;

(c) The administrator of the Commercial Mobile Radio Service Emergency Telecommunications Board;

(d) The executive director of Kentucky Educational Television, or the executive director's designee;

(e) The chief information officer of the Transportation Cabinet;

(f) The chief information officer of the Justice Cabinet;

(g) The chief information officer of the Kentucky State Police;

(h) The commissioner of the Department of Fish and Wildlife Resources,[~~ Tourism Development Cabinet,~~] or the commissioner's designee;

(i) The chief information officer of the National Resources and Environmental Protection Cabinet;

(j) The director of the Department of Emergency Management, Department of Military Affairs;

(k) The executive director of the Office for Security Coordination, Department of Military Affairs;

(l) The chief information officer, Department for Public Health, Cabinet for Health Services;

(m) A representative from an institution of postsecondary education appointed by the Governor from a list of three (3) names submitted by the president of the Council on Postsecondary Education;

(n) The executive director of the Center for Rural Development, or the executive director's designee;

(o) A representative from a municipal government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky League of Cities;

(p) A representative from a county government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Counties;

(q) A representative from a municipal police department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Chiefs of Police;

(r) A representative from a local fire department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Fire Chiefs;

(s) A representative from a county sheriff's department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Sheriffs' Association;

(t) A representative from a local Emergency Medical Services agency to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Board of Emergency Medical Services; and

(u) A representative from a local 911 dispatch center to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Chapter of the National Emergency Number Association/Association of Public Safety Communications Officials.

(4) Appointed members of the committee shall serve for a two (2) year term. Members who serve by virtue of an office shall serve on the committee while they hold that office.

(5) The committee shall meet quarterly, or as often as necessary for the conduct of its business. A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at committee meetings.

(6) The committee shall be attached to the Governor's Office for Technology for administrative purposes only. Members shall not be paid, and shall not be reimbursed for travel expenses.

(7) The Public Safety Working Group is hereby created for the primary purpose of fostering cooperation, planning, and

development of the public safety frequency spectrum as regulated by the Federal Communications Commission, including the 700 MHz public safety band. The group shall endeavor to bring about a seamless, coordinated, and integrated public safety communications network for the safe, effective, and efficient protection of life and property. The Public Safety Working Group membership and other working group memberships deemed necessary shall be appointed by the chair of the Kentucky Wireless Interoperability Executive Committee.

(8) The committee may establish additional working groups as determined by the committee.

Section 6. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
   1. The Governor.
   2. Lieutenant Governor.
   3. Department of State.
      (a) Secretary of State.
      (b) Board of Elections.
      (c) Registry of Election Finance.
   4. Department of Law.
      (a) Attorney General.
   5. Department of the Treasury.
      (a) Treasurer.
   6. Department of Agriculture.
      (a) Commissioner of Agriculture.
      (b) Kentucky Council on Agriculture.
   7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:
   1. Justice Cabinet:
      (a) Department of State Police.
      (b) Department of Criminal Justice Training.
      (c) Department of Corrections.
      (d) Department of Juvenile Justice.
      (e) Office of the Secretary.
      (f) Offices of the Deputy Secretaries.
      (g) Office of General Counsel.
      (h) Division of Kentucky State Medical Examiners Office.
      (i) Parole Board.
      (j) Kentucky State Corrections Commission.
      (k) Commission on Correction and Community Service.
   2. Education, Arts, and Humanities Cabinet:
      (a) Department of Education.
         (1) Kentucky Board of Education.
      (b) Department for Libraries and Archives.
      (c)[~~ Kentucky Arts Council.~~
      ~~(d)~~] Kentucky Educational Television.
      (d)[~~(e) Kentucky Historical Society.~~
      ~~(f)~~] Kentucky Teachers' Retirement System Board of Trustees.

[~~(g) Kentucky Center for the Arts.~~
~~(h) Kentucky Craft Marketing Program.~~]
(e)[~~(i)~~] Kentucky Commission on the Deaf and Hard of Hearing.
(f)[~~(j)~~] Governor's Scholars Program.
(g)[~~(k)~~] Governor's School for the Arts.
(h)[~~(l)~~] Operations and Development Office.
(i)[~~(m) Kentucky Heritage Council.~~
~~(n) Kentucky African-American Heritage Commission.~~
~~(o)~~] Board of Directors for the Center for School Safety.
3. Natural Resources and Environmental Protection Cabinet:
(a) Environmental Quality Commission.
(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.
(g) Office of Information Services.
(h) Office of Inspector General.
4. Transportation Cabinet:
(a) Department of Highways.
1. Office of Program Planning and Management.
2. Office of Project Development.
3. Office of Construction and Operations.
4. Office of Intermodal Programs.
5. Highway District Offices One through Twelve.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Department of Human Resources Management.
(g) Office of the Secretary.
(h) Office of General Counsel and Legislative Affairs.
(i) Office of Public Affairs.
(j) Office of Transportation Delivery.
(k) Office of Minority Affairs.
(l) Office of Policy and Budget.
(m) Office of Technology.
(n) Office of Quality.
(o) Office of the Transportation Operations Center.
5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department for Business Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Department for Regional Development.
(f) Tobacco Research Board.
(g) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:

(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.
(m) Office of Petroleum Storage Tank Environmental Assurance Fund.
(n) Department of Charitable Gaming.
(o) Mine Safety Review Commission.

7. Cabinet for Families and Children:
(a) Department for Community Based Services.
(b) Department for Disability Determination Services.
(c) Public Assistance Appeals Board.
(d) Office of the Secretary.
    (1) Kentucky Commission on Community Volunteerism and Service.
(e) Office of the General Counsel.
(f) Office of Program Support.
(g) Office of Family Resource and Youth Services Centers.
(h) Office of Technology Services.
(i) Office of the Ombudsman.
(j) Office of Human Resource Management.

8. Cabinet for Health Services.
(a) Department for Public Health.
(b) Department for Medicaid Services.
(c) Department for Mental Health and Mental Retardation Services.
(d) Kentucky Commission on Children with Special Health Care Needs.
(e) Office of Certificate of Need.
(f) Office of the Secretary.
(g) Office of the General Counsel.
(h) Office of the Inspector General.
(i) Office of Aging Services.

9. Finance and Administration Cabinet:
(a) Office of Financial Management.
(b) Office of the Controller.
(c) Department for Administration.
(d) Department of Facilities Management.
(e) State Property and Buildings Commission.
(f) Kentucky Pollution Abatement Authority.
(g) Kentucky Savings Bond Authority.
(h) Deferred Compensation Systems.
(i) Office of Equal Employment Opportunity Contract Compliance.
(j) Office of Capital Plaza Operations.

    (k) County Officials Compensation Board.
    (l) Kentucky Employees Retirement Systems.
    (m) Commonwealth Credit Union.
    (n) State Investment Commission.
    (o) Kentucky Housing Corporation.
    (p) Governmental Services Center.
    (q) Kentucky Local Correctional Facilities Construction Authority.
    (r) Kentucky Turnpike Authority.
    (s) Historic Properties Advisory Commission.
    (t) Kentucky Tobacco Settlement Trust Corporation.
    (u) Eastern Kentucky Exposition Center Corporation.
    (v) State Board for Proprietary Education.

10. Labor Cabinet:

    (a) Department of Workplace Standards.
    (b) Department of Workers' Claims.
    (c) Kentucky Labor-Management Advisory Council.
    (d) Occupational Safety and Health Standards Board.
    (e) Prevailing Wage Review Board.
    (f) Workers' Compensation Board.
    (g) Kentucky Employees Insurance Association.
    (h) Apprenticeship and Training Council.
    (i) State Labor Relations Board.
    (j) Kentucky Occupational Safety and Health Review Commission.
    (k) Office of Administrative Services.
    (l) Office of Information Technology.
    (m) Office of Labor-Management Relations and Mediation.
    (n) Office of General Counsel.
    (o) Workers' Compensation Funding Commission.
    (p) Employers Mutual Insurance Authority.

11. Revenue Cabinet:

    (a) Department of Property Valuation.
    (b) Department of Tax Administration.
    (c) Office of Financial and Administrative Services.
    (d) Department of Law.
    (e) Department of Information Technology.
    (f) Office of Taxpayer Ombudsman.

12. ***Commerce***[~~Tourism Development~~] Cabinet:

    (a) Department of Travel.
    (b) Department of Parks.
    (c) Department of Fish and Wildlife Resources.
    (d) Kentucky Horse Park Commission.
    (e) State Fair Board.
    (f) Office of Administrative Services.
    (g)[~~Office of General Counsel.~~]
    ~~(h)~~] Tourism Development Finance Authority.
    (h) Kentucky Arts Council.
    (i) Kentucky Historical Society.
    (j) Kentucky Center for the Arts.
    (k) Kentucky Craft Marketing Program.

   (l) Kentucky African-American Heritage Commission.
   (m) Kentucky Heritage Council.
   (n) Kentucky Foundation for the Arts.
   (o) Kentucky Coal Council.
   (p) Commission on Small Business Advocacy.
   (q) Office of Financial Affairs.
   (r) Office of Legal Affairs.
   (s) Office of Legislative Affairs.
   (t) Office of Personnel.
   (u) Office of Communications.
   (v) Office of Technology.

13. Cabinet for Workforce Development:
   (a) Department for Adult Education and Literacy.
   (b) Department for Technical Education.
   (c) Department of Vocational Rehabilitation.
   (d) Department for the Blind.
   (e) Department for Employment Services.
   (f) Kentucky Technical Education Personnel Board.
   (g) The Foundation for Adult Education.
   (h) Department for Training and Reemployment.
   (i) Office of General Counsel.
   (j) Office of Communication Services.
   (k) Office of Workforce Partnerships.
   (l) Office of Workforce Analysis and Research.
   (m) Office of Budget and Administrative Services.
   (n) Office of Technology Services.
   (o) Office of Quality and Human Resources.
   (p) Unemployment Insurance Commission.

14. Personnel Cabinet:
   (a) Office of Administrative and Legal Services.
   (b) Department for Personnel Administration.
   (c) Department for Employee Relations.
   (d) Kentucky Public Employees Deferred Compensation Authority.
   (e) Kentucky Kare.
   (f) Division of Performance Management.
   (g) Division of Employee Records.
   (h) Division of Staffing Services.
   (i) Division of Classification and Compensation.
   (j) Division of Employee Benefits.
   (k) Division of Communications and Recognition.
   (l) Office of Public Employee Health Insurance.

III. Other departments headed by appointed officers:
   1. Department of Military Affairs.
   2. Council on Postsecondary Education.
   3. Department for Local Government.
   4. Kentucky Commission on Human Rights.
   5. Kentucky Commission on Women.
   6. Department of Veterans' Affairs.
   7. Kentucky Commission on Military Affairs.

8. The Governor's Office for Technology.
9. Commission on Small Business Advocacy.
10. Education Professional Standards Board.

Section 7. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

(1) Council on Postsecondary Education;
(2) Department of Military Affairs;
(3) Department for Local Government;
(4) Kentucky Commission on Human Rights;
(5) Kentucky Commission on Women;
(6) Kentucky Commission on Military Affairs;
(7)[~~Kentucky Coal Council;~~
~~(8)~~] Governor's Office of Child Abuse and Domestic Violence Services;
(8)[~~(9)~~] Governor's Office for Technology;
(9)[~~(10)~~] Office of Coal Marketing and Export;
(10)[~~(11)~~] Agricultural Development Board;
(11)[~~(12) Commission on Small Business Advocacy;~~
~~(13)~~] Office of Early Childhood Development;
(12)[~~(14)~~] Kentucky Agency for Substance Abuse Policy; and
(13)[~~(15)~~] Education Professional Standards Board.

Section 8. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:

(1) Justice Cabinet.
(2) Education, Arts, and Humanities Cabinet.
(3) Natural Resources and Environmental Protection Cabinet.
(4) Transportation Cabinet.
(5) Cabinet for Economic Development.
(6) Public Protection and Regulation Cabinet.
(7) Cabinet for Health Services.
(8) Cabinet for Families and Children.
(9) Finance and Administration Cabinet.
(10) ***Commerce***[~~Tourism Development~~] Cabinet.
(11) Revenue Cabinet.
(12) Labor Cabinet.
(13) Cabinet for Workforce Development.
(14) Personnel Cabinet.

Section 9. KRS 45.001 is amended to read as follows:

(1) The Capital Development Committee is created. The committee shall ensure the proper coordination of state government initiatives which impact the City of Frankfort and Franklin County government and are unique to the seat of state government.
(2) The committee shall meet at least semiannually at a time and place announced by the chairperson.
(3) The membership of the committee shall consist of the following members or their designees:
    (a) The mayor of the city of Frankfort;
    (b) The county judge/executive of Franklin County;
    (c) The secretary of the Finance and Administration Cabinet;
    (d) The secretary of the ***Commerce***[~~Tourism~~] Cabinet;
    (e) The secretary of the Education, Arts, and Humanities Cabinet;
    (f) The commissioner of the Department of Travel Development;
    (g) The executive director of the Office of Capital Plaza Operations;

(h) The chairman of the Frankfort/Franklin County Tourist and Convention Commission;

(i) A citizen at large, who is a resident of Franklin County, appointed by the Franklin County judge/executive; and

(j) A citizen at large, who is a resident of Frankfort, appointed by the mayor of the city of Frankfort.

The citizen-at-large members of the committee shall be appointed to a term of four (4) years each.

(4) The Governor shall appoint the chairperson of the committee.

(5) Members of the committee shall serve without compensation.

(6) The Office of Capital Plaza Operations in the Finance and Administration Cabinet shall provide administrative support to the committee.

Section 10. KRS 65.6971 is amended to read as follows:

(1) A city, county, or agency shall submit an application to the Cabinet for Economic Development for approval of a development area for infrastructure development which includes revenues from the Commonwealth, the standards for which the Cabinet for Economic Development and the ***Commerce***~~[Tourism Development]~~ Cabinet shall establish through their operating procedures or by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The Cabinet for Economic Development shall determine whether the development area described in the application constitutes a project of the type described in this section. The Cabinet for Economic Development, upon its determination, shall assign the application to the economic development authority or the tourism development authority, as appropriate, for further consideration and approval.

(2) A development area for purposes of infrastructure development shall:

(a) 1. Consist of at least fifty (50) acres of undeveloped land, unless approved otherwise by the economic development authority or the tourism development authority in consideration of the geography of the area; or

2. Consist of at least one (1) acre constituting a brownfield site; and

(b) 1. In the case of an economic development project, be under the control of, owned by, and operated by an agency at the commencement date; or

2. In the case of a tourism attraction project, be under the control of, leased by, owned by, or operated by an agency at the commencement date.

(3) With respect to each city, county, or agency that applies to the economic development authority or the tourism development authority for approval of a development area for infrastructure development, the economic development authority or the tourism development authority shall request materials and make all inquiries concerning the application the economic development authority or the tourism development authority deems necessary. Upon review of the application and requested materials, and completion of inquiries, the economic development authority or the tourism development authority may grant approval for:

(a) The development area for infrastructure development;

(b) Each project for which an application has been submitted to be located in the development area for infrastructure development, provided that each project approved for location in the development area for infrastructure development meets the criteria necessary in order to qualify for inducements under subchapters 22, 24, or 28 of KRS Chapter 154, or satisfies the requirements of a tourism development attraction defined under KRS 148.851;

(c) The percentage of the Commonwealth's portion of the increment that the Commonwealth agrees to distribute to the agency each year during the term of the grant contract;

(d) The maximum amount of costs for infrastructure development for which the increment may be distributed to the agency; and

(e) The master agreement constituting a grant contract and any addendum for each project approved for location in the development area for infrastructure development.

(4) Prior to any approval by the economic development authority or the tourism development authority, the economic development authority or the tourism development authority shall have received an ordinance adopted by the city or county creating the development area and establishing the percentage of increment that the city and county are distributing each year to the agency for use in the infrastructure development of the development area for which economic development authority or the tourism development authority approval is sought. The economic development authority or the tourism development authority shall not approve a percentage of the Commonwealth's portion of the increment to be distributed to the agency each calendar year with respect to a development area for infrastructure development greater than the percentage approved by the city or county creating the development area.

(5) The maximum amount of increment available for development areas for infrastructure development is one hundred percent (100%).

(6) The terms and conditions of each grant contract, including the master agreement constituting a grant contract and any addenda, are subject to negotiations between the economic development authority or the tourism development authority and the other parties to the grant contract. The grant contract shall include but not be limited to the following provisions:

the activation date, the taxes to be included in the calculation of the increment, the percentage increment to be contributed by each taxing district, the maximum amount of infrastructure development costs, a description of the development area, the termination date, subject to extension through each addendum, and the requirement of the agency to annually certify to the economic development authority or the tourism development authority as to the use of the increment for payment of infrastructure development costs.

(7) (a) Any agency that enters into a grant contract for the release of any increments that may arise during the period of a grant contract shall, after each calendar year a grant contract is in effect, notify each taxing district obligated under the grant contract that an increment is due, and, in consultation with each taxing district, determine the respective portion of the total increment due from each taxing district. The agency shall then present the total increment due from the Commonwealth under the grant contract to the Revenue Cabinet for certification.

1. Upon notice from the agency, each taxing district obligated under the grant contract, other than the Commonwealth, shall release to the agency the respective portion of the total increment due under the grant contract. The agency shall certify to the Revenue Cabinet on a calendar year basis the amount of the increment collected.

2. Upon certification of the total increment due from the Commonwealth by the Revenue Cabinet, the Cabinet is authorized and directed to transfer the increment to a tax increment financing account established and administered by the Finance and Administration Cabinet for payment of the Commonwealth's portion of the increment. Prior to disbursement by the Finance and Administration Cabinet of the funds from the tax increment financing account, the economic development authority or the tourism development authority shall notify the Finance and Administration Cabinet that the agency is in compliance with the terms of the grant contract. Upon notification, the Finance and Administration Cabinet is authorized and directed to release to the agency the Commonwealth's portion of the total increment due under the grant contract.

(b) The Revenue Cabinet shall report to the economic development authority or the tourism development authority on a calendar year basis the amount of the total increment released to an agency.

(8) The Revenue Cabinet shall have the authority to establish operating procedures for the administration and determination of the Commonwealth's increment.

(9) The Revenue Cabinet or agency shall have no obligation to refund or otherwise return any of the increment to the taxpayer from whom the increment arose or is attributable. Further, no additional increment resulting from audit, amended returns or other activity for any period shall be transferred to the tax increment financing account after the initial release to the agency of the Commonwealth's increment for that period.

Section 11. KRS 65.6972 is amended to read as follows:

(1) A city, county, or agency shall submit an application to the Cabinet for Economic Development for approval of a development area, which includes revenues from the Commonwealth, and the related project, the standards for which the Cabinet for Economic Development and the ***Commerce***[~~Tourism Development~~] Cabinet shall establish through their operating procedures or by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The Cabinet for Economic Development shall determine whether the development area and related project described in the application constitutes a project of the type described in KRS Chapter 154 for which the economic development authority shall have the right to approve the development area and related project or KRS Chapter 148 for which the tourism development authority shall have the right to approve the development area and related project. The Cabinet for Economic Development, upon its determination, shall assign the application to the economic development authority or the tourism development authority, as appropriate, for further consideration and approval.

(2) A project otherwise satisfying the requirements of the project as defined in KRS 65.680, in order to qualify the project and related development area, in addition shall satisfy all of the following requirements for a project:

(a) Represent new economic activity in the Commonwealth;

(b) Result in a minimum capital investment of ten million dollars ($10,000,000);

(c) Result in the creation of a minimum of twenty-five (25) new full-time jobs for Kentucky residents to be held by persons subject to the personal income tax of the Commonwealth within two (2) years of the date of the final resolution authorizing the development area and the project;

(d) Result in a net positive economic impact to the economy of the Commonwealth, taking into consideration any substantial adverse impact on existing Commonwealth businesses;

(e) Generate a minimum of twenty-five percent (25%) of the total revenues derived from the project attributable to sources outside of the Commonwealth during each year a grant contract is in effect;

(f) Result in a unique contribution to or preservation of the economic vitality and quality of life of a region of the Commonwealth; and

(g) Not be primarily devoted to the retail sale of goods.

(3) After assignment of the application for the project and related development area by the Cabinet for Economic Development:

(a) The economic development authority or the tourism development authority, as appropriate, shall engage the services of a qualified independent consultant to analyze data related to the project and the development area, who shall prepare a report for the economic development authority or the tourism development authority, as appropriate, with the following findings:

1. The percentage of revenues derived from the development area which are generated from business not located in the Commonwealth;

2. The estimated amount of increment the development area is expected to generate over a twenty (20) year period from the projected activation date;

3. The estimated amount of ad valorem taxes, other than the school or fire district portion of ad valorem taxes, from real property, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, or other such state taxes which would be displaced within the Commonwealth, to reflect economic activity which is being shifted over the twenty (20) year period;

4. The estimated increment the development area is expected to generate over the twenty (20) year period, equal to the estimated amount set forth in paragraph (a)2. of this subsection minus the estimated amount set forth in paragraph (a)3. of this subsection; and

5. The project or development area will not occur if not for the designation of the development area and granting of increments by the Commonwealth to the development area.

(b) The independent consultant shall consult with the economic development authority or the tourism development authority, as appropriate, the Office of State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet in the development of the report. The Office of State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet shall agree as to methodology to be used and assumptions to be made by the independent consultant in preparing its report. On the basis of the independent consultant's report and prior to any approval of a project by the economic development authority or the tourism development authority, as appropriate, the Office of State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet shall certify whether there is a projected net positive economic impact to the Commonwealth and the expected amount of incremental state revenues from the project to the economic development authority or tourism development authority, as appropriate. Approval shall not be granted if it is determined that there is no projected net positive economic impact to the Commonwealth.

(c) The primary project entity shall pay all costs associated with the independent consultant's report.

(4) With respect to each city, county, or agency that applies for approval of a project and development area, the economic development authority or the tourism development authority, as appropriate, shall request materials and make all inquiries concerning the application the economic development authority or the tourism development authority, as appropriate, deems necessary. Upon review of the application and requested materials, and completion of inquiries, the economic development authority or the tourism development authority, as appropriate, may by resolution grant approval for:

(a) The development area and project for which an application has been submitted;

(b) The percentage of the Commonwealth's portion of the increment that the Commonwealth agrees to have distributed to the agency each year during the term of the grant contract;

(c) The maximum amount of costs for the project for which the increment may be distributed to the agency; and

(d) The grant contract.

(5) Prior to any approval by the economic development authority or the tourism development authority, as appropriate, the economic development authority or the tourism development authority shall have received an ordinance adopted by the city or county creating the development area and approving the project and establishing the percentage of increment that the city and county are distributing each year to the agency to pay for the development area for which economic development authority or tourism development authority approval is sought. The economic development authority or the tourism development authority, as appropriate, shall not approve a percentage of the Commonwealth's portion of the increment to be distributed to the agency each year with respect to a development area and project greater than the percentage approved by the city or county creating the development area.

(6) The amount of increment available for a development area shall be no more than eighty percent (80%) per year, but shall in no case exceed twenty-five percent (25%) of the project costs during the term of the grant agreement.

(7) The terms and conditions of each grant contract are subject to negotiations between the economic development authority or the tourism development authority, as appropriate, and the other parties to the grant contract. The grant contract shall include but not be limited to the following provisions: the activation date, the agreed taxes to be included in the calculation of the increment, the percentage increment to be contributed by the Commonwealth and other taxing districts, the maximum amount of project costs, a description of the development area and the project, the termination date, and the requirement that the agency annually certify to the economic development authority or tourism development authority, as appropriate, as to the use of the increment for payment of project costs in the development area.

(8) The agency responsible for the development area that enters into the grant contract shall, after each year the grant contract is in effect, certify to the economic development authority or the tourism development authority, as appropriate:

(a) The amount of the increment used during the previous calendar year for the project costs; and

(b) That more than twenty-five percent (25%) of the total revenues derived from the project during the previous calendar year were attributable to sources outside the Commonwealth.

(9) (a) Any agency that enters into a grant contract for the release of any increments that may arise during the period of a grant contract shall, after each calendar year a grant contract is in effect, notify each taxing district obligated under the grant contract that an increment is due. In consultation with each taxing district, the agency shall determine the respective portion of the total increment due from each taxing district, and the determination of the agency shall be reviewed by an independent certified public accountant. The agency shall submit to the Revenue Cabinet for certification its determination with respect to the total increment due together with the review of the certified public accountant and detailed information concerning ad valorem taxes, Kentucky individual income tax, Kentucky sales and use taxes, local insurance premium taxes, occupational license fees, and other such state taxes as may be determined by the Revenue Cabinet, including withholding taxes of employees of each taxpayer located in the development area.

1. Upon notification to the agency of the total increment by the Revenue Cabinet and notice from the agency, each taxing district obligated under the grant contract, other than the Commonwealth, shall release to the agency the respective portion of the total increment due under the grant contract. The agency shall certify to the Revenue Cabinet on a calendar year basis the amount of the increments collected.

2. Upon certification of the total increment due from the Commonwealth by the Revenue Cabinet, the Cabinet is authorized and directed to transfer the increment to a tax increment financing account established and administered by the Finance and Administration Cabinet for payment of the Commonwealth's portion of the increment. Prior to disbursement by the Finance and Administration Cabinet of the funds from the tax increment financing account, the economic development authority or the tourism development authority, as appropriate, shall notify the Finance and Administration Cabinet that the agency is in compliance with the terms of the grant contract. Upon notification, the Finance and Administration Cabinet is authorized and directed to release to the agency the Commonwealth's portion of the total increment due under the grant contract.

(b) The Revenue Cabinet shall report to the economic development authority or the tourism development authority, as appropriate, on a calendar year basis the amount of the total increment released to an agency.

(10) The Revenue Cabinet shall have the authority to establish operating procedures for the administration and determination of the Commonwealth's increment.

(11) The Revenue Cabinet or agency shall have no obligation to refund or otherwise return any of the increment to the taxpayer from whom the increment arose or is attributable. Further, no additional increment resulting from audit, amended returns or other activity for any period shall be transferred to the trust account established under subsection (9)(a)2. of this section and administered by the Finance and Administration Cabinet after the initial release to the agency of the Commonwealth's increment for that period.

Section 12. KRS 139.536 is amended to read as follows:

(1) In consideration of the execution of the agreement as defined in KRS 148.851 and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in KRS 148.851 excluding its lessees, may be granted a sales tax refund from the Kentucky sales tax imposed by KRS 139.200 on the sales generated by or arising at the tourism attraction project as defined in KRS 148.851. The approved company shall have no obligation to refund or otherwise return any amount of this sales tax refund to the persons from whom the sales tax was collected. The term of the agreement granting the sales tax refund shall be ten (10) years, and this time period shall commence on the later of:

(a) The final approval for purposes of the inducements; or

(b) The completion date specified in the agreement.

(2) Any sales tax collected by an approved company as defined in KRS 148.851 on sales transacted after final approval but prior to the commencement of the term of the agreement, including any approved company that has received final approval prior to July 15, 2000, shall be refundable as if collected after the commencement of the term and applied to the approved company's first fiscal year's refund after activation of the term and without changing the term.

(3) The total sales tax refund allowed to the approved company over the term of the agreement in subsection (1) of this section shall be equal to the lesser of the total amount of the sales tax liability of the approved company and its lessees or twenty-five percent (25%) of the approved costs. The sales tax refund shall accrue over the term of the agreement in an annual amount equal to two and one-half percent (2.5%) of the approved cost. Notwithstanding the foregoing two and one-half percent (2.5%) limitation, any unused inducements as set forth in KRS 148.851(9) from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire twenty-five percent (25%) of the approved costs have been received through sales tax refunds. By October 1 of each year the Revenue Cabinet shall certify to the authority and the secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet for the preceding fiscal year for all approved companies for which sales tax returns were filed with respect to a tourism attraction project, the sales tax liability of the approved companies receiving inducements under this section and KRS 148.851 to 148.860, and their lessees, and the

amount of the sales tax refunds issued pursuant to subsection (1) of this section.

(4) Interest shall not be allowed or paid on any refund made under the provisions of this section.

(5) The Revenue Cabinet may promulgate administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of this section and KRS 148.851 to 148.860.

Section 13. KRS 148.022 is amended to read as follows:

(1) The Department for Local Government shall administer and operate the outdoor recreation programs of the state and shall be responsible for developmental planning and the administration of United States Bureau of Outdoor Recreation funds.

(2) All functions of the Commonwealth relating to the Breaks Interstate Park shall be attached to the ***Commerce***~~[Tourism Development]~~ Cabinet for administrative purposes.

Section 14. KRS 148.260 is amended to read as follows:

(1) There is hereby created and established an agency of state government to be known as the Kentucky Horse Park Commission which shall constitute a separate administrative body of state government within the meaning of KRS 12.010(8) and under the provisions of KRS 12.015 shall be attached to the ***Commerce***~~[Tourism Development]~~ Cabinet for administrative purposes.

(2) The commission shall be composed of seventeen (17) members who possess the ability to provide broad management expertise and direction in the operation of the Kentucky Horse Park and shall, to the extent possible, represent the diverse interest of the Kentucky horse industry. Of these, fifteen (15) members shall be appointed by the Governor. Two (2) of these appointed members of the commission shall represent the equine industry; and two (2) members shall be active in industry and commerce. The secretary of the Cabinet for Economic Development and the secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet shall serve as ex officio members with full voting rights. Any vacancy on the commission shall be filled by the Governor for the unexpired term.

(3) The appointed members of the commission shall hold their offices for a term of four (4) years, except that for the initial appointment to the commission, two (2) members shall serve a term of two (2) years, two (2) members shall serve a term of three (3) years, and three (3) members shall serve a term of four (4) years.

(4) The commission shall meet quarterly and shall be headed by a chairman appointed by the Governor. The chairman shall preside over the commission meetings. The chairman may call special meetings of the commission upon a request of the majority of the members of the commission.

(5) Members shall be reimbursed only for expenses incurred in the discharge of official business, subject to regulations established by the Finance and Administration Cabinet. All expenses reimbursed to members shall be paid from operating funds of the Kentucky Horse Park.

(6) The commission shall establish and maintain an office at the Kentucky State Horse Park for the transaction of its business and shall not establish any branch office. The commission may hold meetings at any other place when the convenience of the commission requires.

(7) The commission shall be authorized to adopt bylaws providing for the call of its meetings, which shall be held at least quarterly, and for its operating procedures. A quorum of the commission shall consist of eight (8) members, and a quorum of members present at any duly-called meeting may act upon any matter before it for consideration. Each member shall have one (1) vote.

(8) The Governor may establish an advisory committee to advise in the administration, development and operation of the horse park or other functions, activities, and programs provided for or authorized by KRS 148.260 to 148.320.

Section 15. KRS 148.522 is amended to read as follows:

(1) The ***Commerce***~~[Tourism Development]~~ Cabinet shall consist of the Office of the Secretary, the Office of ***Legal Affairs***~~[General Counsel]~~, the Office of Administrative Services, ***the Office of Financial Affairs, the Office of Legislative Affairs, the Office of Personnel, the Office of Communications, the Office of Technology,*** the Department of Travel, the Department of Parks, the Tourism Development Finance Authority, and such other divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet subject to the provisions of KRS Chapter 12.

(2) The ***Commerce***~~[Tourism Development]~~ Cabinet shall encourage the development of the film industry in Kentucky and shall perform all film promotional functions.

(3) The Office of ***Legal Affairs***~~[General Counsel]~~ shall be headed by a general counsel appointed by the secretary pursuant to KRS 12.210, shall provide legal services for the cabinet, and shall be directly responsible to the secretary.

(4) The Department of Travel shall be headed by a commissioner appointed by the Governor pursuant to the provisions of KRS 12.040. The commissioner shall have the authority and responsibility for the promotion, development, and support services for the tourism industry within the Commonwealth.

(5) The Divisions of Tourism Services and Marketing and Advertising Services are created within the Department of Travel. Each division shall be headed by a division director who shall be appointed by the commissioner of the department pursuant to the provisions of KRS 12.050.

Section 16. KRS 148.527 is amended to read as follows:

(1) The Department of Travel of the ***Commerce***~~[Tourism Development]~~ Cabinet shall, after appropriate research has been conducted, establish and maintain a Kentucky Certified Retirement Community Program whereby retirees and those planning to retire are encouraged to make their homes in Kentucky communities that have met certain criteria to be certified by the ***Commerce***~~[Tourism Development]~~ Cabinet as a Kentucky certified retirement community. In support of this program, the Department of Travel shall identify certain issues of interest to retirees or potential retirees in order to inform them of the benefits of living in Kentucky. Issues of interest to retirees may include, but are not limited to:

(a) Kentucky's state and local tax structure;

(b) Housing opportunities and cost;

(c) Climate;

(d) Personal safety;

(e) Working opportunities;

(f) Health care services and other services along the continuum of services including, but not limited to, home and community based services;

(g) Transportation;

(h) Continuing education;

(i) Leisure living;

(j) Recreation;

(k) The performing arts;

(l) Festivals and events;

(m) Sports at all levels; and

(n) Other services and facilities that are necessary to enable persons to age in the community and in the least restrictive environment.

(2) The mission of the Kentucky Certified Retirement Community Program shall be to:

(a) Promote the state as a retirement destination to retirees and those persons and families who are planning retirement both in and outside of Kentucky;

(b) Assist Kentucky communities in their efforts to market themselves as retirement locations and to develop communities that retirees would find attractive for a retirement lifestyle;

(c) Assist in the development of retirement communities and lifecare communities for economic development purposes and as a means of providing a potential workforce and enriching Kentucky communities; and

(d) Encourage tourism to Kentucky in the form of mature market travel to Kentucky in reference to retirement desirability for the future, and for the visitation of those who have chosen to retire in Kentucky.

(3) The ***Commerce***~~[Tourism Development]~~ Cabinet shall coordinate the development and planning of the Kentucky Certified Retirement Community Program with the Cabinet for Economic Development, the Office of Aging Services in the Cabinet for Health Services, the Kentucky Commission on Military Affairs, the Department of Veterans' Affairs, and other state and local groups interested in participating in and promoting the program.

(4) To obtain certification as a Kentucky certified retirement community, the following requirements shall be met:

(a) Official community support. A resolution by the governing authority endorsing the local retirement recruitment effort is required;

(b) Designation of a sponsor. The program shall have an official sponsoring organization that shall appoint an individual who will be accountable to the community and to the state;

(c) Funding. The sponsoring organization must commit a minimum of ten thousand dollars ($10,000) per year for the local program;

(d) Health services. There shall be a hospital and emergency medical services that are readily accessible to the community;

(e) Available housing. The community shall maintain information on both resale housing and rental housing to ensure that the quantity is sufficient to meet the needs of potential new retiree residents;

(f) Retiree desirability assessment. The community shall conduct a retiree desirability assessment that shall focus on a number of factors including, but not limited to, medical services, adult education opportunities, shopping, recreation, cultural opportunities, safety, aging services, and a continuum of care including home and community based services, housing for the elderly, assisted living, personal care, and nursing care facilities;

(g) Establishment of subcommittees. Each locality shall have a general retiree attraction committee and a minimum of four (4) subcommittees as follows:

1. Community inventory/assessment subcommittee. This subcommittee shall conduct an unbiased inventory and assessment of whether the community can offer the basics that retirees demand and develop a

professional portfolio containing brief biographies of professionals in the community;

2. Community relations/fundraising subcommittee. This subcommittee shall locate retirees living in the community, act as salespersons for the program, raise funds necessary to run the program, recruit subcommittee members, organize special events, and promote and coordinate the program with local entities;

3. Marketing and promotion subcommittee. This subcommittee shall establish a community image, evaluate target markets, develop and distribute promotional material, and coordinate advertising and public relations campaigns; and

4. Ambassadors subcommittee. This subcommittee shall be the first contact with prospective retirees and provide tour guides when prospects visit the community. The subcommittee shall respond to inquiries, log contacts made, provide tours, invite prospects to special community events, and maintain continual contact with prospects until the time that the prospect makes a retirement location decision;

(h) Community profile. The sponsor shall develop a community profile similar to that used by many chambers of commerce. It will include factors such as crime statistics, tax information, recreational opportunities, and housing availability; and

(i) Written marketing plan. The retiree attraction committee shall submit a marketing plan that shall detail the mission, the target market, the competition, an analysis of the community's strengths, weaknesses, opportunities and threats, and the strategies the program will employ to attain its goals.

(5) During the certification process, a representative of the retirement attraction committee shall attend state training meetings.

(6) The retiree attraction committee shall work to gain the support of churches, clubs, businesses, and the local media, as this support is necessary for the success of the program.

(7) Within ninety (90) days of certification, the locality shall submit a complete retiree attraction package to the Department of Travel.

(8) Before certification is awarded, the retiree attraction committee shall submit a written three (3) year commitment to the program and a long-term plan outlining steps the community will undertake to maintain its desirability as a destination for retirees. The long-range plan shall outline plans to correct any facility and service deficiencies identified in the retiree desirability assessment required by subsection (4)(f) of this section. The written commitment and long-range plan shall be forwarded to the Department of Travel of the ***Commerce***~~[Tourism Development]~~ Cabinet.

(9) Upon being certified as a Kentucky certified retirement community, the ***Commerce***~~[Tourism Development]~~ Cabinet shall provide the following assistance to the community:

(a) Assistance in the training of local staff and volunteers;

(b) Ongoing oversight and guidance in marketing, plus updating on national retirement trends;

(c) Inclusion in the state's national advertising and public relations campaigns and travel show promotions, including a prominent feature on the cabinet's Internet Web site;

(d) Eligibility for state financial assistance for brochures, support material, and advertising; and

(e) An annual evaluation and progress assessment on maintaining and improving the community's desirability as a home for retirees.

(10) The ***Commerce***~~[Tourism Development]~~ Cabinet shall promulgate administrative regulations to implement the provisions of this section.

Section 17. KRS 148.561 is amended to read as follows:

The Appalachian/Kentucky Artisans Gateway Center Authority is created and established as an independent, de jure municipal corporation and political subdivision of the Commonwealth that shall be a public body corporate and politic. The authority shall develop, operate, and manage the Appalachian/Kentucky Artisans Gateway Center funded by 1998 Ky. Acts ch. 615, Part X, under the reference "Artisans Center--Berea." The authority shall be attached to the ***Commerce***~~[Tourism Development]~~ Cabinet for administrative purposes.

Section 18. KRS 148.562 is amended to read as follows:

(1) The authority shall be governed by a board of directors consisting of thirteen (13) members as follows:

(a) Secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet, or his or her designee;

(b) Secretary of the Transportation Cabinet, or his or her designee;

(c) Secretary of the Education, Arts, and Humanities Cabinet, or his or her designee;

(d) Secretary of the Finance and Administration Cabinet, or his or her designee;

(e) Three (3) members appointed by the Governor, one (1) to be a representative of the Kentucky Arts Council, and two (2) to be at-large members; and

(f) Six (6) members appointed by the mayor of the city of Berea to include two (2) representatives of Berea city government, two (2) representatives of Berea College recommended by the president of Berea College, one (1) representative of Eastern Kentucky University recommended by the president of Eastern Kentucky University, and one (1) at-large member.

(2) Members shall serve for staggered terms of four (4) years beginning August 1, 2000, except that of the initial appointments:

(a) One (1) appointment by the Governor and two (2) appointments by the mayor of the city of Berea shall each serve a term of four (4) years;

(b) Two (2) appointments by the mayor of the city of Berea and one (1) appointment by the Governor shall each serve a term of three (3) years;

(c) One (1) appointment by the Governor and one (1) appointment by the mayor of the city of Berea shall each serve a term of two (2) years; and

(d) One (1) appointment by the mayor of the city of Berea shall serve a term of one (1) year.

(3) The Governor shall appoint a chair from among the members of the board.

(4) A quorum of the board shall consist of seven (7) members, with a majority of members present authorized to act upon any matter legally before the authority.

(5) A member may be removed by the appointing authority only for neglect of duty, misfeasance, or malfeasance, and after being afforded an opportunity for a hearing in accordance with KRS Chapter 13B, relating to administrative hearings.

Section 19. KRS 148.563 is amended to read as follows:

(1) An executive director shall be appointed in accordance with KRS 12.050.

(a) The executive director shall at all times attempt to accommodate the desires expressed by the board of directors.

(b) The executive director shall keep all minutes, records, and orders of the authority and shall be responsible for the preservation of all the documents. The documents shall be public records subject to KRS 61.870 to 61.884, relating to open records.

(2) The staff of the authority, including its executive director, shall be employees of the ***Commerce***~~[Tourism Development]~~ Cabinet.

Section 20. KRS 148.566 is amended to read as follows:

The authority shall have the following duties and authorities:

(1) The authority shall supervise the design, construction, and operation of the center and shall provide all management functions for the facility and for any other property acquired or leased under its powers established by law.

(2) The authority shall promote the growth and development of statewide tourism related to arts and crafts destinations throughout the state and shall ensure that its efforts conform to marketing and promotion strategies devised by the ***Commerce***~~[Tourism Development]~~ Cabinet.

(3) The authority shall have the exclusive control of scheduling all exhibitions, performances, retail activities, and concessions in the center. The authority shall have a prior lien upon the property of any private exhibitor, concessionaire, or other person holding an exhibition or performance or operating a concession in the center and may sell the property upon ten (10) days' notice to satisfy any indebtedness.

(4) The authority shall participate with local hotels and the travel industry to develop tourist packages and additional services to attract events, conferences, and conventions to the region.

(5) The authority may take, acquire, and hold property, and all interests therein, by deed, purchase, gift, devise, bequest, or lease, or by transfer from the State Property and Buildings Commission and may dispose of any property so acquired in any manner provided by law.

(6) The authority may adopt administrative regulations in accordance with KRS Chapter 13A only for governing the operation, maintenance, or use of property under its custody and control.

(7) The authority may levy a surcharge on tickets for functions held within the center to contribute to operating revenue.

(8) The authority may sue and be sued and maintain and defend legal actions in its name.

(9) Members of the authority shall serve without compensation, but shall be reimbursed for actual and necessary travel expenses incurred in the performance of their duties. The reimbursement shall be in accordance with administrative regulations promulgated under KRS Chapter 13A by the Finance and Administration Cabinet.

Section 21. KRS 148.850 is amended to read as follows:

(1) The Tourism Development Finance Authority is created within the ***Commerce***~~[Tourism Development]~~ Cabinet. The authority shall consist of seven (7) members appointed by the Governor. The members of the authority shall serve without compensation but shall be entitled to reimbursement for their necessary expenses incurred in performing their duties. Of the members initially appointed to the authority, two (2) members shall be appointed for terms of one (1) year, three (3) members shall be appointed for terms of two (2) years, and two (2) members shall be appointed for terms of three (3) years. Thereafter, the members of the authority shall be appointed for terms of four (4) years.

(2) The Governor shall appoint one (1) member as chairperson of the Tourism Development Finance Authority. The members of the authority may elect other officers as they deem necessary.

(3) No member of the Tourism Development Finance Authority shall either directly or indirectly be a party to, or be in any manner interested in, any contract or agreement with the authority for any matter, cause, or thing that creates any liability or indebtedness against the authority.

(4) The Tourism Development Finance Authority shall have the powers necessary to carry out the purposes of this section, KRS 139.536, KRS 148.851 to 148.860, and the Tourism Development Loan Program created by 2000 Ky. Acts ch. 549, Part IX, Section 47, including, but not limited to, the power to:

(a) Make and condition all loans from the Tourism Development Loan Program;

(b) Employ fiscal consultants, attorneys, appraisers, and other agents on behalf of the authority whom the authority deems necessary or convenient for the preparation and administration of agreements and documents necessary or incidental to any project. The fees for the services provided by persons employed on behalf of the authority shall be paid by the beneficiary of a loan under this program directly to the person providing consultation, advisory, legal, or other services; and

(c) Impose and collect fees and charges in connection with any transaction and provide for reasonable penalties for delinquent payment of fees and charges.

Section 22. KRS 148.851 is amended to read as follows:

As used in KRS 139.536 and KRS 148.851 to 148.860, unless the context clearly indicates otherwise:

(1) "Agreement" means a tourism attraction agreement entered into, pursuant to KRS 148.859, on behalf of the authority and an approved company, with respect to a tourism attraction project;

(2) "Approved company" means any eligible company approved by the secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet and the authority pursuant to KRS 148.859 that is seeking to undertake a tourism attraction project;

(3) "Approved costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, and installation of a tourism attraction project;

(b) The costs of acquiring real property or rights in real property and any costs incidental thereto;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of the acquisition, construction, equipping, and installation of a tourism attraction project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;

(d) All costs of architectural and engineering services, including but not limited to: estimates, plans and specifications, preliminary investigations, and supervision of construction and installation, as well as for the performance of all the duties required by or consequent to the acquisition, construction, equipping, and installation of a tourism attraction project;

(e) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, and installation of a tourism attraction project;

(f) All costs required for the installation of utilities, including but not limited to: water, sewer, sewer treatment, gas, electricity and communications, and including off-site construction of the facilities paid for by the approved company; and

(g) All other costs comparable with those described in this subsection;

(4) "Authority" means the Kentucky Tourism Development Finance Authority as set forth in KRS 148.850;

(5) "Crafts and products center" means a facility primarily devoted to the display, promotion, and sale of Kentucky products, and at which a minimum of eighty percent (80%) of the sales occurring at the facility are of Kentucky arts, crafts, or agricultural products;

(6) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity operating or intending to operate a tourism attraction project, whether owned or leased, within the Commonwealth that meets the standards promulgated by the secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet pursuant to KRS 148.855. An eligible company may operate or intend to operate directly or indirectly through a lessee;

(7) "Entertainment destination center" means a facility containing a minimum of two hundred thousand (200,000) square feet of building space adjacent or complementary to an existing tourism attraction, an approved tourism attraction project, or a major convention facility, and which provides a variety of entertainment and leisure options that contain at least one (1) major themed restaurant and at least three (3) additional entertainment venues, including but not limited to live entertainment, multiplex theaters, large format theaters, motion simulators, family entertainment centers, concert halls, virtual reality or other interactive games, museums, exhibitions, or other cultural and leisure time activities. Entertainment and food and drink options shall occupy a minimum of sixty percent (60%) of total gross area available for lease, and other

retail stores shall occupy no more than forty percent (40%) of the total gross area available for lease;

(8) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under KRS 139.536 and KRS 148.851 to 148.860;

(9) "Inducements" means the Kentucky sales tax refund as prescribed in KRS 139.536;

(10) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements of KRS 139.536 and KRS 148.851 to 148.860;

(11) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.005, or any board, commission, institution, or division exercising any function of the state that is not an independent municipal corporation or political subdivision;

(12) "Theme restaurant destination attraction" means a restaurant facility that has:

(a) Construction, equipment, and furnishing costs in excess of five million dollars ($5,000,000);

(b) Seating capacity of four hundred fifty (450) guests, of which an annual average of not less than fifty percent (50%) shall be guests who are not residents of the Commonwealth;

(c) Business plans that indicate that the attraction shall be in operation and open to the public no less than three hundred (300) days per year and for no less than eight (8) hours per day;

(d) Business plans that indicate that the attraction shall offer live music or live musical and theatrical entertainment during the peak business hours that the facility is in operation and open to the public, and shall offer a unique dining and cultural experience that is not available elsewhere in the Commonwealth; and

(e) Food and nonalcoholic drink options that constitute a minimum of fifty percent (50%) of total gross sales receipts;

(13) "Tourism attraction" means a cultural or historical site, a recreation or entertainment facility, an area of natural phenomenon or scenic beauty, a Kentucky crafts and products center, a theme restaurant destination attraction, or an entertainment destination center. A tourism attraction shall not include any of the following:

(a) Lodging facilities, unless:

1. The facilities constitute a portion of a tourism attraction project and represent less than fifty percent (50%) of the total approved cost of the tourism attraction project, or the facilities are to be located on recreational property owned or leased by the Commonwealth or federal government and the facilities have received prior approval from the appropriate state or federal agency;

2. The facilities involve the restoration or rehabilitation of a structure that is listed individually in the National Register of Historic Places or are located in a National Register Historic District and certified by the Kentucky Heritage Council as contributing to the historic significance of the district, and the rehabilitation or restoration project has been approved in advance by the Kentucky Heritage Council; or

3. The facilities involve the reconstruction, restoration, rehabilitation, or upgrade of a full-service lodging facility having not less than five hundred (500) guest rooms, with reconstruction, restoration, rehabilitation, or upgrade costs exceeding ten million dollars ($10,000,000).

(b) Facilities that are primarily devoted to the retail sale of goods, other than an entertainment destination center, a theme restaurant destination attraction, a Kentucky crafts and products center, or a tourism attraction where the sale of goods is a secondary and subordinate component of the attraction; and

(c) Recreational facilities that do not serve as a likely destination where individuals who are not residents of the Commonwealth would remain overnight in commercial lodging at or near the tourism attraction project; and

(14) "Tourism attraction project" or "project" means the acquisition, including the acquisition of real estate by a leasehold interest with a minimum term of ten (10) years, construction, and equipping of a tourism attraction; the construction, and installation of improvements to facilities necessary or desirable for the acquisition, construction, and installation of a tourism attraction, including but not limited to surveys; installation of utilities, which may include water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located, all of which are to be used to improve the economic situation of the approved company in a manner that shall allow the approved company to attract persons.

Section 23. KRS 148.855 is amended to read as follows:

(1) The secretary of the ***Commerce***[~~Tourism Development~~] Cabinet shall establish standards for the making of applications for inducements and the recommendation to the authority of eligible companies and their tourism attraction projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) The secretary of the ***Commerce***[~~Tourism Development~~] Cabinet shall consult with the authority when establishing standards to ensure that standards established pursuant to subsection (1) of this section and KRS 148.857(1) do not conflict.

(3) With respect to each eligible company making an application to the secretary of the ***Commerce***[~~Tourism Development~~] Cabinet for inducements, and with respect to the tourism attraction project described in the application, the secretary of the ***Commerce***[~~Tourism Development~~] Cabinet shall make inquiries and request materials of the applicant that shall include,

but not be limited to, marketing plans for the project that target individuals who are not residents of the Commonwealth; a description and location of the project; capital and other anticipated expenditures for the project that indicate that the total cost of the project shall exceed one million dollars ($1,000,000), except for a theme restaurant destination attraction's project cost, which shall exceed five million dollars ($5,000,000), and the anticipated sources of funding therefor; the anticipated employment and wages to be paid at the project; business plans which indicate the average number of days in a year in which the project will be in operation and open to the public; and the anticipated revenues and expenses generated by the project. If the tourism attraction project is an entertainment destination center, the sales tax refund shall be dedicated to a public infrastructure purpose that shall relate to the tourism attraction project and shall be approved by the secretary of the ***Commerce***[~~Tourism Development~~] Cabinet. The applicant shall submit the public infrastructure purpose with its application. Based upon a review of these materials, if the secretary of the ***Commerce***[~~Tourism Development~~] Cabinet determines that the eligible company and the tourism attraction project may reasonably satisfy the criteria for final approval in subsection (4) of this section, then the secretary of the ***Commerce***[~~Tourism Development~~] Cabinet may submit a written request to the authority requesting that the authority consider a preliminary approval of the eligible company and the tourism attraction project.

(4) After receiving a preliminary approval by the authority, the secretary of the ***Commerce***[~~Tourism Development~~] Cabinet shall engage the services of a competent consulting firm to analyze the data made available by the eligible company and to collect and analyze additional information necessary to determine that, in the independent judgment of the consultant, the tourism attraction project:

(a) Shall attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth, except for a theme restaurant destination attraction, which shall attract a minimum of fifty percent (50%) of its visitors from among persons who are not residents of the Commonwealth;

(b) Shall have costs in excess of one million dollars ($1,000,000), except for a theme restaurant destination attraction, which shall have costs in excess of five million dollars ($5,000,000);

(c) Shall have a significant and positive economic impact on the Commonwealth considering, among other factors, the extent to which the tourism attraction project will compete directly with existing tourism attractions in the Commonwealth and the amount by which increased tax revenues from the tourism attraction project will exceed the credit given to the approved company;

(d) Shall produce sufficient revenues and public demand to be operating and open to the public for a minimum of one hundred (100) days per year, except for a theme restaurant destination attraction, which shall be operating and open to the public for a minimum of three hundred (300) days per year; and

(e) Shall not adversely affect existing employment in the Commonwealth.

(5) The independent consulting firm shall consult with the authority, the Office of the State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet in the development of a report on the proposed tourism attraction project. The Office of the State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet shall agree as to the methodology to be used and assumptions to be made by the independent consultant in preparing its report. On the basis of the independent consultant's report and prior to any approval of a project by the authority, the Office of the State Budget Director, the Finance and Administration Cabinet, and the Revenue Cabinet shall certify to the authority whether there is a projected net positive economic impact to the Commonwealth and the expected amount of incremental state revenues from the project. Approval shall not be granted if it is determined that there is no projected net positive economic impact to the Commonwealth.

(6) The eligible company shall pay for the cost of the consultant's report and shall cooperate with the consultant and provide all of the data that the consultant deems necessary to make its determination under subsection (4) of this section.

(7) After a review of relevant materials, the consultant's report, and completion of other inquiries, the secretary of the ***Commerce***[~~Tourism Development~~] shall, by written notification to the authority, provide a recommendation to the authority regarding final approval of the tourism attraction project.

Section 24. KRS 148.857 is amended to read as follows:

(1) The authority shall establish standards for preliminary approval and final approval of eligible companies and their projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) The authority shall consult with the secretary of the ***Commerce***[~~Tourism Development~~] Cabinet when establishing standards to ensure that standards established pursuant to KRS 148.855(1) and subsection (1) of this section do not conflict.

(3) At the written request of the secretary of the ***Commerce***[~~Tourism Development~~] Cabinet, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and preliminarily authorizing the undertaking of the tourism attraction project.

(4) After the adoption of the authority's preliminary approval, an agent designated by the ***Commerce***[~~Tourism Development~~] Cabinet shall hold at least one (1) public hearing to solicit public comments regarding the designation of an eligible company as a preliminarily approved company and the preliminary authorization for the undertaking of a tourism attraction project. Notice of the public hearing shall be given in accordance with KRS Chapter 424.

(5) The authority shall review the report of the consultant prepared pursuant to KRS 148.855(4), the recommendation of the secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet, the report prepared by the agent documenting all comments, both written and oral, received at the public hearing required by subsection (4) of this section, and other information that has been made available to the authority in order to assist the authority in determining whether the tourism attraction project will further the purposes of KRS 139.536 and KRS 148.851 to 148.860.

(6) The criteria for final approval of eligible companies and tourism attraction projects shall include, but not be limited to, the criteria set forth in KRS 148.855(4).

(7) After a review of the consultant's report, the recommendation of the secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet and other information made available to the authority, the authority, by resolution, may give its final approval to the eligible company's application for a tourism attraction project and may grant to the eligible company the status of an approved company. The decision reached by the authority shall be final and no appeal shall be granted.

(8) All meetings of the authority shall be held in accordance with KRS 61.805 to 61.850. The authority may, pursuant to KRS 61.815, hold closed sessions of its meetings to discuss matters exempt from the open meetings law and pertaining to an eligible company.

Section 25. KRS 148.872 is amended to read as follows:

As used in KRS 148.870 to 148.892, unless the context otherwise requires:

(1) "Department" means the Kentucky Department of Parks within the ***Commerce***~~[Tourism Development]~~ Cabinet;

(2) "Person" means an individual, trust, firm, estate, joint stock company, corporation, nonprofit corporation, government corporation, limited liability company, partnership, association, organization, government unit or agency whether federal, state, city, commission, or other political subdivision of the Commonwealth, any interstate body, group of persons acting in concert, or other legal entity;

(3) "Secretary" means the secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet of the Commonwealth of Kentucky; and

(4) "Trail" means the Pine Mountain Trail State Park, as established in KRS 148.870.

Section 26. KRS 153.180 is amended to read as follows:

(1) There is hereby established a nonprofit foundation to be known as the Kentucky Foundation for the Arts. The purpose of the foundation shall be to enhance the stability of Kentucky's arts organizations and to ensure Kentuckians have access to the arts through the support of an endowment fund.

(2) Funding for the foundation shall be obtained through state appropriations, gifts, grants, and any other funds from the public and private sectors. The foundation board shall have the authority to solicit, accept, and receive contributions from the public and private sectors to match public funding. Moneys in the foundation fund shall not lapse to the general fund at the end of the fiscal year. Moneys in the foundation fund shall be invested by the Office of Financial Management consistent with the provisions of KRS Chapter 42, and interest income earned shall be credited to the foundation fund. The foundation board may use the investment income for the purpose of awarding matching grants to nonprofit arts organizations to carry out the following programs:

  (a) The Performing Arts and Visual Arts Touring Subsidy Program shall support tours and exhibitions for the education and enjoyment of audiences throughout the state.

  (b) The Institutional Stabilization Program shall provide operating funds to achieve short-term or long-term stability of arts organizations.

(3) The foundation shall be governed by a board of trustees consisting of six (6) members appointed by the Governor on recommendations from the Kentucky Arts Council. For the initial appointments, the Governor shall appoint two (2) members to serve two (2) year terms; two (2) members to serve three (3) year terms; and two (2) members to serve four (4) year terms. Thereafter, the Governor shall make all appointments for a term of four (4) years. The board shall elect by majority vote a chair and other officers deemed necessary. Board members shall not receive any compensation for their services, but may be reimbursed in accordance with the provisions of KRS 44.070 and 45.101 for actual and necessary expenses incurred in the performance of their duties.

(4) The foundation board shall perform duties and responsibilities deemed necessary to fulfill the purposes of this section. The foundation board shall establish by administrative regulation procedures for administration of the foundation, eligibility criteria for the award of grants, appropriate matching contributions from grant recipients, and evaluation and reporting requirements.

(5) The foundation shall be attached to the office of the secretary for the ***Commerce***~~[Education, Arts, and Humanities]~~ Cabinet for administrative purposes only. The Kentucky Arts Council shall provide to the foundation by agreement staff support and office facilities for which reasonable charges and fees may be levied against the foundation fund.

(6) The foundation board shall submit an annual report to the Governor and the Legislative Research Commission listing the sources of funds acquired and expended.

Section 27. KRS 148.880 is amended to read as follows:

A fund for the purpose of carrying out the provisions of KRS 148.870 to 148.892 is hereby created, to be designated as the Pine

Mountain Trail fund, and shall consist of all revenues derived from privileges, concessions, contracts, or otherwise, and all moneys received by gifts, contributions, donations, and grants from public or private sources. This shall be a trust and agency fund account maintained and disbursed by the ***Commerce***[~~Tourism Development~~] Cabinet to carry out the purposes of KRS 148.870 to 148.892, after appropriations are made for administration and other expenses and purposes provided in KRS 148.870 to 148.892. It shall not lapse, and interest earnings shall accrue to the fund.

Section 28. KRS 154.10-010 is amended to read as follows:

(1) (a) The Kentucky Economic Development Partnership, a board governing the Cabinet for Economic Development, is created and established, performing essential governmental and public functions and purposes essential to improving and promoting the health and general welfare of the people of the Commonwealth through sustainable economic development, as prescribed in KRS 154.01-020.

(b) The board shall have reorganization powers and authority as prescribed in KRS 12.028 and shall constitute an administrative body as defined in KRS 12.010, but it and the cabinet shall not be subject to the reorganization by the Governor, KRS Chapter 12 notwithstanding.

(c) The board shall serve as the governing body of the cabinet and shall exercise all powers and authorities conferred upon it by statute, including, but not limited to, the following functions:

1. Strategic planning;
2. Finance;
3. Business assistance;
4. Marketing and promotion;
5. Community development;
6. Workforce development;
7. Innovation; and
8. All economic development powers and authorities not specifically conferred by statute to another agency or authority of state government.

(2) The board shall consist of eleven (11) voting members and two (2) nonvoting members. The eleven (11) voting members shall consist of the Governor, the secretary of the Finance and Administration Cabinet, the secretary of the Natural Resources and Environmental Protection Cabinet, and eight (8) private sector members who shall be appointed by the Governor. The secretary of the Governor's Executive Cabinet shall serve as a voting member upon the absence of the Governor. The secretary of the Cabinet for Economic Development and the secretary of the ***Commerce***[~~Tourism Development~~] Cabinet shall serve as nonvoting members.

(3) By no later than thirty (30) days after July 14, 1992, the governing bodies of each of the following organizations shall meet and nominate two (2) persons from each of the six (6) Congressional districts of the Commonwealth and two (2) persons from the state at large, as candidates for the initial appointment as private sector members to the board:

(a) The Kentucky Industrial Development Council;
(b) The Associated Industries of Kentucky;
(c) The Kentucky State AFL-CIO;
(d) The Kentucky Farm Bureau Federation;
(e) The Kentucky Chamber of Commerce; and
(f) The Kentucky Economic Development Corporation.

(4) The Governor shall select the original eight (8) private sector members from the aggregation of the lists provided pursuant to subsection (3) with at least one (1) appointment being chosen from each organization's list and at least one (1) appointment being chosen from each Congressional district. After the initial appointments, appointments to vacancies shall be made in the same manner as prescribed in subsection (3) of this section, except that there is no requirement that the vacancy be filled from the same organization's list as the original appointment.

(5) The terms of office of the initial appointments of the private sector members to the board shall be staggered so that one-fourth (1/4) of all appointments shall expire one (1), two (2), three (3), and four (4) years, respectively, from the date of their appointment. All succeeding appointments shall be for four (4) years.

(6) In making appointments to the board, the Governor shall assure broad geographical representation, as well as representation from the major sectors of Kentucky's economy by leading executives with a knowledge of the problems of large and small businesses, local economic development, and the transfer of research and development from the laboratory to the marketplace. In filling vacancies, the Governor shall attempt to assure the continuing representation on the board of broad constituencies of Kentucky's economy, including manufacturing and agriculture.

(7) Vacancies on the board which may occur from time to time shall be filled as follows:

(a) Any vacancy which occurs shall be filled for the unexpired term in accordance with the procedures established for the original appointment.

(b) If any private sector member misses more than two (2) consecutive meetings of the board, then that position shall be declared vacant and filled in accordance with this section.

(8) The board shall meet quarterly and at other times upon call of the chairman or a majority of the board.

(9) A quorum shall be a majority of the voting membership of the board.

(10) A quorum shall be required to organize and conduct the business of the board, except that an affirmative vote of seven (7) or more members of the entire board shall be required to fire the cabinet's secretary, and to adopt or amend the strategic plan.

(11) Private sector members shall serve without compensation but shall be reimbursed for all reasonable, necessary, and actual expenses.

(12) All existing duties, responsibilities, functions, personnel, programs, funds, obligations, records, and real and personal property of the Cabinet for Economic Development, as of July 14, 1992, shall be under the authority and control of the board.

Section 29. KRS 154.33-603 is amended to read as follows:

(1) The corporation shall be governed by a board of directors consisting of seven (7) voting members and three (3) ex officio members as follows:

(a) Three (3) members representing the three (3) county governments, one (1) to be appointed by the county judge/executive of Knott County, one (1) to be appointed by the county judge/executive of Letcher County, and one (1) to be appointed by the county judge/executive of Perry County;

(b) Three (3) members appointed by the Governor, one (1) each from Knott, Letcher, and Perry Counties;

(c) The secretary of the Finance and Administration Cabinet, or his or her designee, as a voting member;

(d) The secretary of the ***Commerce***[~~Tourism Development~~] Cabinet, or his or her designee, as an ex officio, nonvoting member;

(e) The secretary of the Cabinet for Economic Development, or his or her designee, as an ex officio, nonvoting member; and

(f) The commissioner of the Department for Local Government, or his or her designee, as an ex officio, nonvoting member.

(2) Appointed members shall serve staggered terms of four (4) years beginning August 1, 2000, except that of the initial appointments:

(a) One (1) member appointed by the Governor and the member appointed by the county judge/executive of Knott County shall each serve a term of four (4) years;

(b) One (1) member appointed by the Governor and the member appointed by the county judge/executive of Letcher County shall each serve a term of three (3) years;

(c) The one (1) member appointed by the county judge/executive of Perry County shall serve a term of two (2) years; and

(d) One (1) member appointed by the Governor shall serve a term of one (1) year.

(3) A member may be removed by the appointing authority only for neglect of duty, misfeasance, or malfeasance and after being afforded an opportunity for a hearing in accordance with KRS Chapter 13B.

(4) Members of the board shall serve without compensation but shall be reimbursed for actual and necessary travel expenses incurred in the performance of their duties. The reimbursement shall be in accordance with administrative regulations promulgated under KRS Chapter 13A by the Finance and Administration Cabinet.

Section 30. KRS 154.47-050 is amended to read as follows:

The Kentucky Wood Products Competitiveness Corporation shall work in cooperation with the Department of Parks of the ***Commerce***[~~Tourism Development~~] Cabinet to:

(1) Develop and design Kentucky-made furniture for use in state parks;

(2) Make state parks facilities living showrooms for Kentucky furniture and other wood products; and

(3) Establish retail showrooms where Kentucky-made furniture and other wood products can be displayed for sale to, or order by, park visitors.

Section 31. KRS 171.812 is amended to read as follows:

The commission shall coordinate Kentucky's Underground Railroad initiative in accordance with KRS 171.805. The commission's duties as they relate to this initiative shall include but not be limited to the following:

(1) Undertake a comprehensive statewide inventory of historic sites related to the Underground Railroad, and implement a master plan for site protection and development;

(2) Encourage and assist the state preservation officer within the Kentucky Heritage Council to nominate significant historical sites of the Kentucky Underground Railroad to the national and state registers of historic places;

(3) Develop and operate, in conjunction with the ***Commerce***~~[Tourism Development]~~ Cabinet, a program of public information, education, and promotion of the history of the Underground Railroad in Kentucky, to include but not be limited to implementing and maintaining a website connected to the ***Commerce***~~[Tourism Development]~~ Cabinet;

(4) Coordinate with local, state, and federal authorities in project planning that may affect Underground Railroad sites in Kentucky and neighboring states;

(5) Consider the council's recommendations and, contingent on review by the council, present to the secretary of the Education, Arts, and Humanities Cabinet an annual report and plan for future action; and

(6) Pursue public and private funds to carry out the duties set forth in this section.

Section 32. KRS 171.814 is amended to read as follows:

An Underground Railroad Advisory Council shall be established within the commission.

(1) The council shall consist of thirteen (13) members, as follows:
  (a) Secretary of the Education, Arts, and Humanities Cabinet, or designee;
  (b) Secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet, or designee;
  (c) Secretary of the Transportation Cabinet, or designee;
  (d) Director of the Kentucky Historical Society, or designee;
  (e) State historic preservation officer of the Kentucky Heritage Council, or designee;
  (f) Chair of the commission or designee;
  (g) Director of the Underground Railroad Institute at Georgetown College, or designee;
  (h) Two (2) members of the General Assembly who hold an interest in the Underground Railroad, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives;
  (i) Two (2) at-large representatives who hold an interest in the protection, preservation, and promotion of the history of the Underground Railroad in Kentucky, appointed by the Governor;
  (j) One (1) member of the board or staff of the National Underground Railroad Freedom Center who resides within a county of the Northern Kentucky Area Development District; and
  (k) One (1) member of the board or staff of the National Underground Railroad Museum who resides within a county of the Buffalo Trace Area Development District.

(2) The duties of the council shall be to:
  (a) Advise and assist the commission with respect to issues and opportunities related to the Underground Railroad; and
  (b) Annually review and make recommendations to the commission on the annual report and plan for future action.

(3) Members of the council shall be appointed for four (4) year terms, except that initial appointments for the two (2) at-large members shall be made so that one (1) member is appointed for two (2) years, and one (1) member is appointed for three (3) years. Sitting members shall be eligible for reappointment.

(4) The chair of the commission shall serve as chair of the council.

(5) The council shall meet annually or more frequently at the request of the chair.

(6) Six (6) members shall constitute a quorum for conducting business.

(7) In the event of a vacancy, the appropriate appointing entity shall appoint a replacement member who shall hold office during the remainder of the term so vacated.

(8) Members of the council shall serve without compensation.

Section 33. KRS 176.500 is amended to read as follows:

(1) The Mississippi River Parkway Commission of Kentucky is hereby established to serve as the local coordinating agency for the development of the Great River Road along the Mississippi River from Canada to the Gulf of Mexico. The commission shall be attached to the Office of the Secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet for administrative purposes.

(2) The commission shall consist of the following ten (10) members: Four (4) citizen members, appointed by the Governor, and consisting of one (1) member from each of the four (4) counties that border the Mississippi River, who shall serve a term of four (4) years and may serve until a successor is appointed. Four (4) members shall be the respective county judges/executive of Ballard, Carlisle, Fulton, and Hickman Counties in Kentucky. Other members shall be the secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet or his designee; and the secretary of the Transportation Cabinet, or his designee. The commission shall annually elect a chairman and shall meet quarterly or upon call of the chairman with ten (10) days' written notice. Six (6) members present shall constitute a quorum for the official conduct of business. The commission may enter into contracts with the Purchase Area Development District to provide administrative services.

(3) Members shall receive no compensation but shall be reimbursed according to state regulations for actual and necessary expenses incurred in conducting commission business.

(4) The commission shall assure that the proper direction is taken in developing a corridor of scenic, historical, and archaeological significance through the Kentucky counties of Ballard, Carlisle, Hickman, and Fulton.

Section 34. KRS 177.107 is amended to read as follows:

The Transportation and Tourism Interagency Committee is established to foster close collaboration between the ***Commerce***[~~Tourism Development~~] Cabinet and the Transportation Cabinet on policies that affect the tourism industry and to place strong emphasis on the coordination of mutual interests such as highway signage, scenic byways, highway safety, and concern for the Commonwealth's beauty and heritage.

Section 35. KRS 177.108 is amended to read as follows:

(1) The Transportation and Tourism Interagency Committee shall be composed of thirteen (13) members or their official appointed designees, as follows:
    (a) Six (6) members appointed by the secretary of the ***Commerce***[~~Tourism~~] Cabinet;
    (b) Six (6) members appointed by the secretary of the Transportation Cabinet; and
    (c) One (1) member appointed by the executive director of the Kentucky Heritage Council.
(2) Committee members shall receive no compensation for their services, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with the performance of their duties and functions as committee members.
(3) The committee shall elect its chair and vice chair from representatives of the ***Commerce***[~~Tourism Development~~] and Transportation Cabinets for a term of one (1) year. The vice chair shall succeed the chair. The chair shall alternately be a representative of the ***Commerce***[~~Tourism Development~~] and Transportation Cabinets.
(4) The committee shall meet upon the call of the chair and upon the request of the secretary of the ***Commerce***[~~Tourism Development~~] Cabinet or the secretary of the Transportation Cabinet.
(5) A committee member may appoint a proxy for an individual meeting, delegating to the proxy the privilege of voting on any issue. The proxy appointment shall be in writing.

Section 36. KRS 177.109 is amended to read as follows:

The Transportation and Tourism Interagency Committee shall have, but not be limited to, the following duties and responsibilities:

(1) Review Kentucky's signage laws, administrative regulations, and policies implementing the federal "Manual on Uniform Traffic Control Devices" and submit any proposed revisions to the secretary of the Transportation Cabinet;
(2) Seek public comment on Kentucky's signage laws, administrative regulations, and policies;
(3) Advise the Transportation Cabinet on the scenic byways and highways program;
(4) Review and make recommendations on requests for highway signage from tourism-related entities;
(5) Coordinate development of the tourism information potential of welcome centers and rest areas through such means as interactive videos, information kiosks, and highway advisory radio transmitters, as well as other innovative methods which may be identified by the committee;
(6) Monitor developments across the United States relating to billboards and official signs;
(7) Report to the secretary of the Transportation Cabinet and to the secretary of the ***Commerce***[~~Tourism Development~~] Cabinet on issues of mutual interest to the cabinets;
(8) Serve as an advisory committee on issues identified by the secretary of the Transportation Cabinet and secretary of the ***Commerce***[~~Tourism Development~~] Cabinet; and
(9) Report committee recommendations to the secretary of the Transportation Cabinet, the secretary of the ***Commerce***[~~Tourism Development~~] Cabinet, the secretary of the Education, Arts, and Humanities Cabinet, and the secretary of the Executive Cabinet.

Section 37. KRS 177.573 is amended to read as follows:

The Transportation Cabinet, in coordination with the ***Commerce***[~~Tourism Development~~] Cabinet and the Kentucky Heritage Council, shall promulgate administrative regulations under KRS Chapter 13A to establish:

(1) Specific criteria for a road to be designated a scenic byway or a scenic highway;
(2) A process for nominating and review of a road as a scenic byway or scenic highway;
(3) A process for designating a road as a scenic byway or scenic highway; and
(4) A process to remove the scenic designation from a byway or highway if the intrinsic qualities of the road change or if the community affected by the road requests the scenic designation to be removed.

Section 38. KRS 194B.110 is amended to read as follows:

(1) The Kentucky Commission on Human Services Collaboration is hereby created and is attached to the Cabinet for Families and Children for administrative purposes. The commission shall develop, adopt, and amend, as appropriate, a service coordination plan to promote health, education, and social services partnerships of public and private agencies. The commission shall coordinate, evaluate, and provide technical assistance in implementing the service coordination plan.

(2) The commission shall coordinate and facilitate development of community partnership strategic plans, which are designed to implement the service coordination plan.

(3) The commission shall coordinate and facilitate development of outcomes to be achieved by community partnerships as outlined in the service coordination plan and report on progress toward achieving results.

(4) The commission shall also work to increase the efficiency and effectiveness of services to individuals, families and children through the identification and elimination of duplicative boards and commissions, which exercise overlapping responsibilities, and the identification of gaps in and barriers to the provision and receipt of human services. The commission shall provide technical assistance to communities.

(5) The commission shall report to the Legislative Research Commission and the General Assembly by October 1 of each year on the following:

    (a) The coordination plan;
    (b) The community partnership strategic plans;
    (c) The increase in the efficiency and effectiveness of services;
    (d) The boards and commissions eliminated;
    (e) The boards and commissions identified as duplicative; and
    (f) The identified gaps and barriers to provision and receipt of human services.

(6) The commission shall consist of the following members:

    (a) The Governor's designee;
    (b) The secretary of the Cabinet for Families and Children;
    (c) The secretary for the Cabinet for Health Services;
    (d) The secretary of the Cabinet of Economic Development;
    (e) The secretary of the Justice Cabinet;
    (f) The secretary of Arts, Education and Humanities;
    (g) The secretary of the ***Commerce***~~[Tourism]~~ Cabinet;
    (h) The secretary of the Cabinet for Workforce Development;
    (i) The commissioner of education;
    (j) The commissioner of juvenile justice;
    (k) The director of the Administrative Office of the Courts;
    (l) Seven (7) gubernatorial appointees, representing business, community leaders, and consumers; and
    (m) The chair for the Council on State and Local Collaboratives.

(7) Members who hold state government positions shall serve by virtue of their offices. The remaining initial members of the commission shall be designated by the Governor to serve for a term ranging from one (1) to four (4) years. Subsequent appointments to the commission shall be for four (4) year terms and limited to two (2) consecutive four (4) year terms.

(8) The Governor shall designate a member of the public appointed to the commission to serve as chair of the commission for a term of two (2) years. Thereafter, a chair shall be selected by the members of the commission from the members of the public appointed by the commission. The chair shall serve for a period of two (2) years.

(9) The chair of the commission, following consultation with the cabinet secretaries and upon agreement of the commission, may designate work groups to make recommendations to the commission regarding parental and community involvement and its mission.

(10) Staff assistance shall be provided to the commission through the cooperative efforts of the members of the commission serving in the executive cabinet. Primary staff assistance shall be the responsibility of the Cabinet for Families and Children.

(11) Members of the commission shall be eligible to receive travel expenses while attending meetings of the commission in accordance with state travel regulations. Members of committees appointed by the commission shall be eligible for reimbursement of travel expenses incurred while attending committee or commission meetings in accordance with state travel regulations.

(12) The commission shall cease to exist two (2) years after July 15, 1998, unless otherwise reauthorized by the General Assembly.

Section 39. KRS 235.010 is amended to read as follows:

As used in this chapter, unless the context clearly requires a different meaning:

(1) "Vessel" means every description of watercraft, other than a seaplane on the water;

(2) "Motorboat" means any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion, except for the following:

(a) Boats or vessels propelled totally by a direct current battery-powered motor when used on private waters;

(b) Boats propelled by human power employing the use of hand or foot operation; and

(c) Federally regulated commercial vessels;

(3) "Owner" means a person, other than a lienholder, having the property in or title to a motorboat. The term includes a person entitled to the use or possession of a motorboat subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security;

(4) "Personal watercraft" means a vessel which uses an internal combustion engine to power a jet pump for its primary source of propulsion and is designed to be operated by a person sitting, standing, or kneeling on the vessel rather than to be operated by a person sitting or standing inside the vessel;

(5) "Safe boating certificate" means a document attesting the successful completion of instruction, approved by the department or given by the United States Coast Guard or Coast Guard Auxiliary or the United States Power Squadron, to prepare an individual to safely operate a motorboat or personal watercraft on the waters of the Commonwealth;

(6) "Waters of this state" means any waters within the territorial limits of this state;

(7) "Person" means an individual, partnership, firm, corporation, association, or other entity;

(8) "Operate" means to navigate or otherwise use a motorboat or a vessel;

(9) "Cabinet" means the ***Commerce***[~~Tourism Development~~] Cabinet;

(10) "Department" means the Department of Fish and Wildlife Resources;

(11) "License" and "certificate of number" as used herein are synonymous;

(12) "Clerk" means county clerk;

(13) "Division of Law Enforcement" means the Division of Law Enforcement, Department of Fish and Wildlife Resources within the ***Commerce***[~~Tourism Development~~] Cabinet;

(14) "Title" means the certificate of title;

(15) "Commissioner" means the commissioner of the Department of Fish and Wildlife Resources;

(16) "Federally regulated commercial vessel" means any vessel holding a United States certificate of documentation with a coastwise trade endorsement;

(17) "Marina" means a dock or basin providing moorings for motorboats and offering supply, repair, or other services for remuneration; and

(18) "Marine sanitation device" means equipment that is identified by the United States Coast Guard as meeting the standards of the United States Environmental Protection Agency or that is approved by the Natural Resources and Environmental Protection Cabinet, to eliminate the discharge of untreated sewage from vessels into the waters of the Commonwealth and is a device that receives, treats, retains, or discharges sewage.

Section 40. KRS 235.030 is amended to read as follows:

This chapter shall be known as the State Boating Act and shall be administered by the Department of Fish and Wildlife Resources in the ***Commerce***[~~Tourism Development~~] Cabinet, except the Transportation Cabinet shall be responsible for administering the boat numbering, registration, and titling requirements.

Section 41. KRS 235.130 is amended to read as follows:

(1) No person acting for himself or another shall buy or trade for any motorboat without receiving the certificate of title issued for that boat with a certificate of transfer ***endorsed***[~~indorsed~~] thereon. If the motorboat has not been issued a certificate of title as noted on the certificate of registration, the person shall receive a completed assignment of title on a boat transaction record and the certificate of registration.

(2) It shall be the duty of the purchaser to promptly submit the ***endorsed***[~~indorsed~~] certificate of title or boat transaction record and certificate of registration to the county clerk of the county of the purchaser's residence or in which the motorboat is to be principally operated. The purchaser shall apply for a new certificate of title and registration pursuant to KRS 235.050. The county clerk shall thereupon issue to the purchaser a transfer of registration bearing the same data and information. The clerk shall forward the ***endorsed***[~~indorsed~~] certificate of title or boat transaction record and certificate of registration and new application for title and registration to the Transportation Cabinet. Except when registration is prohibited by law, any unexpired registration shall remain valid after transfer until expiration occurs according to law.

(3) For transferring the registration, the clerk shall collect a fee of five dollars ($5). The clerk shall retain two dollars ($2), the Transportation Cabinet shall receive two dollars ($2) and the Department of Fish and Wildlife Resources within the ***Commerce***[~~Tourism Development~~] Cabinet shall receive one dollar ($1). The fee received by the Transportation Cabinet shall be deposited in a trust and agency account for use by the Transportation Cabinet in defraying the cost of implementing and operating the boat titling and registration program. The fee for transferring the title shall be as required by KRS 235.085.

(4) If a transferee does not promptly submit the necessary documents to the county clerk as required by law in order to

complete the transfer transaction, a transferor may submit to the county clerk, after the passage of fifteen (15) calendar days, in his county of residence, an affidavit that he has transferred his interest in a specific motorboat and the clerk may enter appropriate data into the AVIS system which would restrict any registration transaction from occurring on that vehicle until the transfer was processed.

(5) If the owner junks or otherwise renders a motorboat unfit for future use, he shall deliver the title to the county clerk of the county in which the motorboat is junked. The county clerk shall immediately return the title to the Transportation Cabinet. The owner shall pay to the county clerk fifty cents ($0.50) for his services.

Section 42. KRS 247.800 is amended to read as follows:

The Department of Agriculture, in conjunction with the ***Commerce***~~[Tourism Development]~~ Cabinet, shall create an interagency Office of Agritourism to be housed in the Department of Agriculture. As used in KRS 247.800 to 247.810, agritourism means the act of visiting a working-farm or any agricultural, horticultural, or agribusiness operation for the purpose of enjoyment, education, or active involvement in the activities of the farm or operation. It shall be the purpose of the Office of Agritourism to:

(1) Promote agritourism in Kentucky to potential visitors, both national and international; and

(2) Assist in sustaining the viability and growth of the agritourism industry in Kentucky.

Section 43. KRS 247.802 is amended to read as follows:

The Office of Agritourism shall perform all duties necessary to carry out the purposes of KRS 247.800 to 247.810, including but not limited to:

(1) Within the first year of its creation, developing a statewide master plan for implementation of KRS 247.800 and this section. The Office of Agritourism shall report on the plan to the Agritourism Advisory Council at the request of the council;

(2) Developing a unified Kentucky agritourism marketing strategy between the Department of Agriculture and the ***Commerce***~~[Tourism Development]~~ Cabinet to promote Kentucky agritourism. The strategy shall include but not be limited to promotion of Kentucky agritourism through the creation of an agritourism Web site and advertisement through various media outlets;

(3) Coordinating efforts to educate the general public about the importance of Kentucky's agricultural heritage and industry;

(4) Developing regional agritourism development plans for each of the nine (9) tourism regions as follows:

  (a) Bluegrass;

  (b) Cave;

  (c) Green River;

  (d) Eastern Highlands-North;

  (e) Eastern Highlands-South;

  (f) Louisville-Lincoln;

  (g) Northern Kentucky;

  (h) Southern Lakes and Rivers; and

  (i) Western Lakes and Rivers;

(5) Providing support, education, and resource materials for all interested persons, to include but not be limited to existing Kentucky agritourism businesses, displaced tobacco farmers and others engaged in agribusiness within the state, and other Kentuckians with the intent of developing an agritourism business. The agritourism office shall provide this assistance in the following areas, to include but not be limited to:

  (a) Agritourism opportunities, networks, product development, and entrepreneurship;

  (b) Agritourism funding opportunities, including but not limited to grants, loans, and partnerships; and

  (c) Insurance and infrastructure concerns of the agritourism industry;

(6) Working and partnering with federal, state, and local organizations to carry out the purposes of KRS 247.800 to 247.810;

(7) Reporting to the Agritourism Advisory Council, as created in KRS 247.804, annually or at the request of the chair, and in accordance with subsection (1) of this section; and

(8) Considering the recommendations of the Agritourism Advisory Council, in accordance with KRS 247.806(2).

Section 44. KRS 247.804 is amended to read as follows:

An Agritourism Advisory Council shall be established within the Department of Agriculture to advise and assist the Office of Agritourism. The Agritourism Advisory Council shall be composed of:

(1) One (1) representative from each of the following entities:

  (a) Department of Agriculture, appointed by the Commissioner of Agriculture;

  (b) ***Commerce***~~[Tourism Development]~~ Cabinet, appointed by the secretary of the cabinet;

  (c) Education, Arts, and Humanities Cabinet, appointed by the secretary of the cabinet;

(d) Department of Fish and Wildlife Resources Commission, appointed by the commissioner of the department;

(e) University of Kentucky Cooperative Extension Service;

(f) West Kentucky Corporation;

(g) Kentucky Tourism Council;

(h) Kentucky Farm Bureau;

(i) Kentucky Association of Fairs and Horse Shows;

(j) East Kentucky Corporation;

(k) Southern and Eastern Kentucky Tourism Development Association;

(l) Licking River Valley Resource Conservation and Development Council;

(m) Buffalo Trace Covered Bridge Authority;

(n) Kentucky Chamber of Commerce; and

(o) Kentucky Council of Area Development Districts;

(2) The Governor, or a designee;

(3) Two (2) members of the General Assembly who hold an interest in agriculture, one (1) appointed by the President of the Senate and one (1) appointed by the Speaker of the House of Representatives; and

(4) Nine (9) representatives of agriculture or the agritourism industry, appointed by the Commissioner of Agriculture from a list of candidates compiled by the tourism regions as set forth in KRS 247.802(4). Each tourism region shall submit three (3) candidates with a business interest in agritourism who reside within that region, and the Commissioner shall appoint one (1) candidate from each region from those names submitted.

Section 45. KRS 247.810 is amended to read as follows:

The Commissioner of Agriculture and the secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A, as necessary to implement the provisions of KRS 247.800 to 247.810.

Section 46. KRS 260.165 is amended to read as follows:

(1) The Kentucky Grape and Wine Council is hereby created within the Department of Agriculture. The purpose of the council shall be to promote and facilitate the development of a grape industry in the Commonwealth of Kentucky.

(2) The council shall be composed of the Commissioner of Agriculture, or his designee, and nine (9) members appointed by the Governor. Of the nine (9) gubernatorial appointments, the Governor shall appoint one (1) from a list of three (3) candidates submitted by the director of the University of Kentucky Agriculture Experiment Station, one (1) from a list of three (3) candidates submitted by the secretary of the ***Commerce***~~[Tourism Development]~~ Cabinet, three (3) winery operators, and two (2) grape producers from a list of ten (10) candidates submitted by the Kentucky Vineyard Society and the Kentucky Grape and Wine Council.

(3) The appointed members shall serve for terms of four (4) years and until their successors are appointed and qualify. The council shall select a chairman and shall meet at the times and places that he designates. Five (5) members present at any meeting shall constitute a quorum. Upon the written request of any five (5) members, the chairman shall call a meeting of the council at the time and place requested.

(4) Members shall receive no compensation but shall be reimbursed, payable from the Kentucky Grape and Wine Council fund, for any actual travel expense incurred while attending meetings of the council.

Section 47. The following KRS sections are repealed:

148.815 State Parks Commission.

148.820 Meetings of commission -- Duties of commission.

148.825 Inspection of state park facilities by commission -- Access to grounds, buildings, and records.

Section 48. Notwithstanding any provision of KRS Chapter 13A, all administrative regulations in effect on the effective date of this Act pursuant to the statutory authority granted to an agency affected by the provisions of this Act shall remain in effect as they exist on the effective date of this Act until the agency amends of repeals the administrative regulation pursuant to KRS Chapter 13A. The regulations compiler shall change the appropriate administrative regulations in accordance with the provisions of this Act. The agencies affected by the provisions of this Act shall provide a listing of the administrative regulations that require any changes to the regulations compiler.

Section 49. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 50. Any provision of law to the contrary notwithstanding, the General Assembly hereby confirms the portion of the Governor's Executive Order 2003-064, dated December 23, 2003, relating to the Commerce Cabinet, and the Governor's Executive Order 2004-026, dated January 6, 2004, to the extent they are not otherwise confirmed or superseded by this Act.

The Committee on Banking and Insurance reported **HB 227**, with Committee Substitute and Committee Amendment attached thereto, and **HJR 128**, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 227, AN ACT relating to catastrophic health benefit plans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) (a) An insurer that offers, renews, or delivers a health benefit plan in Kentucky may offer as an option a catastrophic health benefit plan that excludes from health benefit plan coverage any or all state mandated health insurance benefits specified in this chapter.

(b) A catastrophic health benefit plan offered, renewed, or delivered under this section must meet minimum requirements established by the commissioner by administrative regulations promulgated under KRS Chapter 13A.

(2) A prospective policyholder upon application for initial catastrophic health benefit plan coverage that excludes any or all state mandated health insurance benefits, and each policyholder upon renewal of such a catastrophic health benefit plan, must sign a written disclosure statement provided by the insurer and return the statement to the insurer. The disclosure statement shall clearly state that all state mandated health insurance benefits are not covered by the catastrophic health benefit plan and shall list and describe each covered mandated health benefit and each excluded mandated health benefit. The disclosure statement shall be on a form prescribed by the commissioner.

(3) The insurer shall retain the completed disclosure statement in its records for a reasonable period of time established by the commissioner.

(4) The commissioner may promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A to implement the provisions of this section.

The Committee Substitute to **HB 227** is as follows:

HB 227, AN ACT relating to catastrophic health benefit plans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) (a) Effective January 1, 2005, an insurer that offers, renews, or delivers a health benefit plan in Kentucky may offer as an option a health benefit plan that excludes from health benefit plan coverage any or all state mandated health insurance benefits specified in this chapter, except for those state mandated health insurance benefits that mandate the payment, indemnification, or reimbursement of providers licensed under KRS Chapter 312 or any other specified health care providers as defined in KRS 304.17A-005(19) and except for mandated benefits specified by federal law.

(b) A health benefit plan offered, renewed, or delivered under this section must meet minimum requirements established by the commissioner by administrative regulations promulgated under KRS Chapter 13A.

(c) Notwithstanding any other provision of this chapter, an insurer shall not be required to utilize the experience of enrollees of health benefit plans that contain the state mandated insurance benefits specified in this chapter to develop the insurer's index rate for health benefit plans offered, renewed, or delivered under this section.

(2) A prospective policyholder upon application for initial health benefit plan coverage that excludes any or all state mandated health insurance benefits, and each policyholder upon renewal of such a health benefit plan, must sign a written disclosure statement provided by the insurer and return the statement to the insurer. The disclosure statement shall clearly state that all state mandated health insurance benefits are not covered by the health benefit plan and shall list and describe each covered mandated health benefit and each excluded mandated health benefit. The disclosure statement shall be on a form prescribed by the commissioner.

(3) The insurer shall retain the completed disclosure statement, or an electronic copy of same, in its records for a reasonable period of time established by the commissioner.

(4) The commissioner may promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A to implement the provisions of this section.

The Committee Amendment No. 1 Title to **HB 227** is as follows:

HB 227, By amending the title to read as follows: "AN ACT relating to health benefit plans."

HJR 128, A JOINT RESOLUTION directing the Legislative Research Commission to require the Interim Joint Committee on Banking and Insurance to study the feasibility of self-funding at least one health insurance option for state employees.

WHEREAS, according to the Kentucky Public Employee Health Insurance Program Annual Report, 68% of large employers self-fund a PPO plan for their employees; and

WHEREAS, administration expenses under a self-funded health insurance plan are typically lower due to the elimination of insurer risk charges which are normally 2% to 5% of total premiums; and

WHEREAS, through direct contracting a self-funded program may have more negotiation flexibility with providers; and

WHEREAS, a self-funded program typically has more design flexibility which may result in more consistency in the benefit options offered to plan participants in different geographic areas of the Commonwealth; and

WHEREAS, under a self-funded arrangement the Commonwealth could consolidate its risk pool and have increased flexibility in allocating its health care program's costs;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Legislative Research Commission is directed to require the Interim Joint Committee on Banking and Insurance to study the feasibility of self-funding at least one health insurance option for state employees.

Section 2. The Personnel Cabinet or its successor agency under a reorganization order shall cooperate with the Interim Joint Committee on Banking and Insurance in executing and completing this study.

Section 3. The Interim Joint Committee on Banking and Insurance shall report its findings to the Legislative Research Commission no later than December 1, 2004.

Section 4. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee on Licensing and Occupations reported **HB 461,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 461, AN ACT relating to electrical licensing and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 227.480 is amended to read as follows:

(1) A city, county, urban-county, or consolidated local government shall, according to the Uniform State Building Code as it pertains to the plan review and inspection responsibilities of local governments, require any person to obtain permits before commencing construction, alteration, or repairs of any electrical wiring, and require such inspection as it deems necessary for the safety of life and property.

(2) A city, county, urban-county, or consolidated local government or the state shall not issue a permit unless the applicant submits proof of being licensed ***as an electrical contractor*** under KRS 227A.010 to 227A.140 ***or of acting on behalf of a licensed electrical contractor***. However, the provisions of this subsection shall not apply to a homeowner or farmer who does construction, alteration, or repairs of any electrical wiring on his or her own premises ***or any other person exempt from licensing under KRS 227A.030. This subsection shall not apply to electrical work performed by the Commonwealth of Kentucky, a city, county, urban-county, or consolidated local government, or any subdivision thereof***.

(3) A city, county, urban-county, or consolidated local government shall appoint and may fix the compensation of city, county, urban-county, or consolidated local government electrical inspectors, and may by ordinance fix reasonable fees and establish other requirements for the conduct of electrical inspections within its boundaries. All electrical inspectors must be certified under KRS 227.489.

(4) Reasonable standards for the construction, alteration, and repair of any electrical wiring shall be those adopted in the Uniform State Building Code, as promulgated by the Board of Housing, Buildings and Construction, and shall have as a minimum standard the requirements of the National Electric Code. These standards shall be used by the electrical inspector in making his inspections.

Section 2. KRS 227A.010 is amended to read as follows:

As used in KRS 227A.010 to 227A.140, unless the context otherwise requires:

(1) "Authorized local licensing program" means any city, county, urban-county, charter county, or consolidated local government electrician and electrical contractor licensing program established by local ordinance for the purpose of licensing electrical workers. "Authorized local licensing program" shall include a licensing program established through a cooperative agreement between two (2) or more counties;

(2) "Committee" means the Electrical Advisory Committee as described in KRS 227.530;

(3) "Department" means the Department of Housing, Buildings and Construction;

(4) "Electrical" pertains to the installation, alteration, or repair of wires and conduits for the purpose of transmitting electricity, and the installation of fixtures and equipment in connection therewith;

(5) "Electrical contractor" means any licensed individual, partnership, or corporation that is licensed to engage in, offers to engage in, or advertises or holds itself out to be qualified to engage in designing, planning, superintending, contracting of, or assuming responsibility for the installation, alteration, or repair of any electrical wiring used for the purpose of furnishing heat, light, or power, and employs electrical workers to engage in this practice. If the electrical contractor is not a master electrician, the electrical contractor shall employ at least one (1) full-time master electrician***; however, no master electrician shall act in this capacity for more than one (1) electrical contractor***;

(6) "Electrician" means any person licensed by the department who is employed by an electrical contractor and is engaged in the construction, alteration, or repair of any electrical wiring used for the purpose of furnishing heat, light, or power;

(7) "Maintenance worker or maintenance engineer" means a person who is a regular, bona fide employee or agent of a property owner, property lessor, property management company, or firm that is not in the electrical business but has jurisdiction over the property where the routine maintenance of electrical systems is being performed;

(8) "Master electrician" means any individual licensed to assume responsible charge, supervision, or direction of an electrician engaged in the construction, installation, alteration, or repair of electrical wiring used to furnish heat, light, or power; and

(9) "Routine maintenance of electrical systems" means the routine and periodic servicing of electrical systems, including cleaning, inspecting, and making adjustments to ensure the proper operation and the removal or replacement of component parts. "Routine maintenance of electrical systems" does not include the installation of complete electrical systems.

Section 3. KRS 227A.100 is amended to read as follows:

(1) Each licensee licensed under the provisions of KRS 227A.010 to 227A.140 shall annually, on or before the ***last day of the licensee's birth month***[~~anniversary date of the license~~], pay to the department a renewal fee as established in administrative regulations promulgated by the department.

(2) A sixty (60) day grace period shall be allowed after the anniversary date of the license during which time a licensee may continue to practice and may renew his or her license upon payment of the renewal fee plus a late renewal fee as promulgated by administrative regulation of the department.

(3) A license not renewed before the end of the sixty (60) day grace period shall terminate based on the failure of the licensee to renew in a timely manner. Upon termination, the licensee is no longer eligible to practice in the Commonwealth.

(4) After the sixty (60) day grace period, a former licensee with a terminated license may have the license reinstated upon payment of the renewal fee plus a reinstatement fee as promulgated by administrative regulation of the department. An applicant for reinstatement after termination of the license shall not be required to submit to any examination as a condition for reinstatement, if the reinstatement application is made within three (3) years from the date of termination.

(5) A suspended license is subject to expiration and termination and shall be renewed as provided in this section. Renewal shall not entitle the licensee to engage in the practice until the suspension has ended or is otherwise removed by the department and the right to practice is restored by the department.

(6) A revoked license is subject to expiration or termination but may not be renewed. If it is reinstated, the former licensee shall pay the reinstatement fee as promulgated by administrative regulations under subsection (4) of this section and the renewal fee as promulgated by administrative regulations under subsection (1) of this section.

(7) The department shall require an applicant for renewal or reinstatement of a license to show evidence of completing at least six (6) hours of continuing education provided by the National Electrical Contractors Association, the Associated Builders and Contractors, the International Brotherhood of Electrical Workers, the Associated General Contractors, the International Association of Electrical Inspectors, the Independent Electrical Contractors Association, the Kentucky Department of Housing, Buildings and Construction, or other provider of instruction approved by the department. The department shall promulgate administrative regulations establishing the content of the programs and the qualifications of the providers.

(8) The department shall require, where applicable, that an applicant for renewal or reinstatement of a license submit proof that the applicant has complied with workers' compensation and unemployment insurance laws and regulations and has obtained a general liability insurance policy of not less than five hundred thousand dollars ($500,000).

(9) The department may, through the promulgation of administrative regulations:

- ***(a) Establish an inactive license for licensees who are not actively engaging in the electrical business but wish to maintain their license;***

(b) Reduce license and renewal fees for inactive licensees; and

(c) Waive the requirements established in subsection (8) of this section for inactive licensees.

Section 4. KRS 227A.080 is amended to read as follows:

(1) Upon payment of all applicable fees, an applicant for licensure as a master electrician under KRS 227A.060 making application to the department prior to July 15, 2004, may be licensed by the department without completing the licensure requirements as established in KRS 227A.060 if:

(a) The applicant is currently licensed by a city, county, urban-county, consolidated local government, or the state of Kentucky; or

(b) The applicant is currently licensed, certified, or registered as a master electrician in another state whose standards are substantially equal to those in KRS 227A.060.

(2) Prior to July 15, 2004, an applicant who does not qualify for licensure under subsection (1) of this section or KRS 227A.060 may qualify for licensure by the following:

(a) An applicant for licensure as an electrical contractor shall qualify by showing a minimum of two (2) years of verifiable experience engaging in the work of an electrical contractor in this state;

(b) An applicant for licensure as a master electrician shall qualify by showing a minimum of six (6) years of verifiable experience as an electrical worker in this state; and

(c) An applicant for licensure as an electrician shall qualify by showing a minimum of four (4) years of verifiable experience as an electrical worker in this state.

Under this subsection, any individual who is currently engaged in the work of an electrical contractor, electrician, or master electrician but who has not been licensed by the state or any locality may qualify for licensure in lieu of requirements in KRS 227A.060 by documenting the appropriate years of experience in his or her respective area.

(3) ***Prior to July 15, 2004, the department may issue a pending license to an applicant. A pending license shall allow the applicant to act in the capacity applied for until the applicant's permanent license is issued or the application is denied.***

(4) After July 15, 2004, licensure under this section shall cease.

Section 5. Whereas it is necessary to provide a pending license for electricians in the Commonwealth in order that they may continue to work while they are waiting for a decision regarding their application for a permanent license, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Substitute to **HB 461** is as follows:

HB 461, AN ACT relating to electrical licensing and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 227.480 is amended to read as follows:

(1) A city, county, urban-county, or consolidated local government shall, according to the Uniform State Building Code as it pertains to the plan review and inspection responsibilities of local governments, require any person to obtain permits before commencing construction, alteration, or repairs of any electrical wiring, and require such inspection as it deems necessary for the safety of life and property.

(2) A city, county, urban-county, or consolidated local government or the state shall not issue a permit unless the applicant submits proof of being licensed ***as an electrical contractor*** under KRS 227A.010 to 227A.140 ***or of acting on behalf of a licensed electrical contractor***. However, the provisions of this subsection shall not apply to a homeowner or farmer who does construction, alteration, or repairs of any electrical wiring on his or her own premises ***or any other person exempt from licensing under KRS 227A.030. This subsection shall not apply to electrical work performed by the Commonwealth of Kentucky, a city, county, urban-county, or consolidated local government, or any subdivision thereof***.

(3) A city, county, urban-county, or consolidated local government shall appoint and may fix the compensation of city, county, urban-county, or consolidated local government electrical inspectors, and may by ordinance fix reasonable fees and establish other requirements for the conduct of electrical inspections within its boundaries. All electrical inspectors must be certified under KRS 227.489.

(4) Reasonable standards for the construction, alteration, and repair of any electrical wiring shall be those adopted in the Uniform State Building Code, as promulgated by the Board of Housing, Buildings and Construction, and shall have as a minimum standard the requirements of the National Electric Code. These standards shall be used by the electrical inspector in making his inspections.

Section 2. KRS 227A.010 is amended to read as follows:

As used in KRS 227A.010 to 227A.140, unless the context otherwise requires:

(1) "Authorized local licensing program" means any city, county, urban-county, charter county, or consolidated local

government electrician and electrical contractor licensing program established by local ordinance for the purpose of licensing electrical workers. "Authorized local licensing program" shall include a licensing program established through a cooperative agreement between two (2) or more counties;

(2) "Committee" means the Electrical Advisory Committee as described in KRS 227.530;

(3) "Department" means the Department of Housing, Buildings and Construction;

(4) "Electrical" pertains to the installation, alteration, or repair of wires and conduits for the purpose of transmitting electricity, and the installation of fixtures and equipment in connection therewith;

(5) "Electrical contractor" means any licensed individual, partnership, or corporation that is licensed to engage in, offers to engage in, or advertises or holds itself out to be qualified to engage in designing, planning, superintending, contracting of, or assuming responsibility for the installation, alteration, or repair of any electrical wiring used for the purpose of furnishing heat, light, or power, and employs electrical workers to engage in this practice. If the electrical contractor is not a master electrician, the electrical contractor shall employ at least one (1) full-time master electrician***; however, no master electrician shall act in this capacity for more than one (1) electrical contractor***;

(6) "Electrician" means any person licensed by the department who is employed by an electrical contractor and is engaged in the construction, alteration, or repair of any electrical wiring used for the purpose of furnishing heat, light, or power;

(7) "Maintenance worker or maintenance engineer" means a person who is a regular, bona fide employee or agent of a property owner, property lessor, property management company, or firm that is not in the electrical business but has jurisdiction over the property where the routine maintenance of electrical systems is being performed;

(8) "Master electrician" means any individual licensed to assume responsible charge, supervision, or direction of an electrician engaged in the construction, installation, alteration, or repair of electrical wiring used to furnish heat, light, or power; and

(9) "Routine maintenance of electrical systems" means the routine and periodic servicing of electrical systems, including cleaning, inspecting, and making adjustments to ensure the proper operation and the removal or replacement of component parts. "Routine maintenance of electrical systems" does not include the installation of complete electrical systems.

Section 3. KRS 227A.100 is amended to read as follows:

(1) Each licensee licensed under the provisions of KRS 227A.010 to 227A.140 shall annually, on or before the ***last day of the licensee's birth month***[~~anniversary date of the license~~], pay to the department a renewal fee as established in administrative regulations promulgated by the department.

(2) A sixty (60) day grace period shall be allowed after the anniversary date of the license during which time a licensee may continue to practice and may renew his or her license upon payment of the renewal fee plus a late renewal fee as promulgated by administrative regulation of the department.

(3) A license not renewed before the end of the sixty (60) day grace period shall terminate based on the failure of the licensee to renew in a timely manner. Upon termination, the licensee is no longer eligible to practice in the Commonwealth.

(4) After the sixty (60) day grace period, a former licensee with a terminated license may have the license reinstated upon payment of the renewal fee plus a reinstatement fee as promulgated by administrative regulation of the department. An applicant for reinstatement after termination of the license shall not be required to submit to any examination as a condition for reinstatement, if the reinstatement application is made within three (3) years from the date of termination.

(5) A suspended license is subject to expiration and termination and shall be renewed as provided in this section. Renewal shall not entitle the licensee to engage in the practice until the suspension has ended or is otherwise removed by the department and the right to practice is restored by the department.

(6) A revoked license is subject to expiration or termination but may not be renewed. If it is reinstated, the former licensee shall pay the reinstatement fee as promulgated by administrative regulations under subsection (4) of this section and the renewal fee as promulgated by administrative regulations under subsection (1) of this section.

(7) The department shall require an applicant for renewal or reinstatement of a license to show evidence of completing at least six (6) hours of continuing education provided by the National Electrical Contractors Association, the Associated Builders and Contractors, the International Brotherhood of Electrical Workers, the Associated General Contractors, the International Association of Electrical Inspectors, the Independent Electrical Contractors Association, the Kentucky Department of Housing, Buildings and Construction, or other provider of instruction approved by the department. The department shall promulgate administrative regulations establishing the content of the programs and the qualifications of the providers.

(8) The department shall require, where applicable, that an applicant for renewal or reinstatement of a license submit proof that the applicant has complied with workers' compensation and unemployment insurance laws and regulations and has obtained a general liability insurance policy of not less than five hundred thousand dollars ($500,000).

(9) The department may, through the promulgation of administrative regulations:

(a) Establish an inactive license for licensees who are not actively engaging in the electrical business but wish to maintain their license;

(b) Reduce license and renewal fees for inactive licensees; and

(c) Waive the requirements established in subsection (8) of this section for inactive licensees.

Section 4. KRS 227A.080 is amended to read as follows:

(1) Upon payment of all applicable fees, an applicant for licensure as a master electrician under KRS 227A.060 making application to the department prior to July 15, 2004, may be licensed by the department without completing the licensure requirements as established in KRS 227A.060 if:

(a) The applicant is currently licensed by a city, county, urban-county, consolidated local government, or the state of Kentucky; or

(b) The applicant is currently licensed, certified, or registered as a master electrician in another state whose standards are substantially equal to those in KRS 227A.060.

(2) Prior to July 15, 2004, an applicant who does not qualify for licensure under subsection (1) of this section or KRS 227A.060 may qualify for licensure by the following:

(a) An applicant for licensure as an electrical contractor shall qualify by showing a minimum of two (2) years of verifiable experience engaging in the work of an electrical contractor in this state;

(b) An applicant for licensure as a master electrician shall qualify by showing a minimum of six (6) years of verifiable experience as an electrical worker in this state; and

(c) An applicant for licensure as an electrician shall qualify by showing a minimum of four (4) years of verifiable experience as an electrical worker in this state.

Under this subsection, any individual who is currently engaged in the work of an electrical contractor, electrician, or master electrician but who has not been licensed by the state or any locality may qualify for licensure in lieu of requirements in KRS 227A.060 by documenting the appropriate years of experience in his or her respective area.

(3) *Prior to July 15, 2004, the department may issue a pending license to an applicant. A pending license shall allow the applicant to act in the capacity applied for until the applicant's permanent license is issued or the application is denied.*

(4) After July 15, 2004, licensure under this section shall cease.

Section 5. KRS 227A.030 is amended to read as follows:

(1) The provisions of KRS 227A.010 to 227A.140 shall not apply to installations under the exclusive control of electric utilities for the purpose of communication, metering, or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for those purposes or located outdoors on property owned or leased by the utility or on public highways, streets, or roads, or outdoors by established rights on private property.

(2) Nothing in KRS 227A.010 to 227A.140 shall require that a maintenance worker or maintenance engineer performing routine maintenance of electrical systems be licensed.

(3) Nothing in KRS 227A.010 to 227A.140 shall prohibit or interfere with the ability of a homeowner or farmer to install or repair electrical wiring on his or her real property.

(4) Nothing in KRS 227A.010 to 227A.140 shall require that a retailer or its agent engaged in making installations of an appliance purchased at a retail establishment be licensed.

(5) Nothing in KRS 227A.010 to 227A.140 shall be construed to require persons making installations exempt by KRS 227.460 to be licensed or to work for a licensed person.

(6) Nothing in KRS 227A.010 to 227A.140 shall preclude the use of unlicensed, nonresident electricians in temporary, emergency, or industrial shutdown situations. Those unlicensed, nonresident electricians shall apply for an electrician's license or a master electrician's license after they are employed and engaged in electrical work in the Commonwealth of Kentucky for a period of thirty (30) days. The license shall be obtained by the temporary, unlicensed, nonresident electricians within sixty (60) days of securing employment.

(7) Nothing in KRS 227A.010 to 227A.140 shall apply to a person performing work at a surface or underground coal mine or at a coal preparation plant.

(8) Nothing in KRS 227A.010 to 227A.140 shall apply to a person performing work for a telecommunications company for which the voltage is fifty (50) volts or less.

(9) Nothing in KRS 227A.010 to 227A.140 shall prohibit a factory-authorized representative from the installation, maintenance, or service of a medical equipment device. This exemption does not include work providing electrical feeds into the power distribution unit or installation of conduits and raceways. This exemption covers only those factory engineers or third-party service companies with equivalent training who are qualified to perform such service.

(10) Nothing in KRS 227A.010 to 227A.140 shall apply to low-voltage, power-limited installations for control or coordination of interconnected devices separated from a power source by a Class 2 or Class 3 transformer installed by a person licensed as:

(a) A master or journeyman heating, ventilation, and air conditioning technician employed by a licensed HVAC contractor pursuant to KRS 198B.658;

(b) A fire protection sprinkler contractor pursuant to KRS 198B.560;

(c) A manufactured housing dealer or certified installer pursuant to KRS 227.610;

(d) A boiler mechanic pursuant to KRS 236.210;

(e) A master or journeyman plumber pursuant to KRS 318.030;

(f) An onsite sewage disposal system installer pursuant to KRS 211.357; or

(g) An electrician or master electrician employed by an electrical contractor pursuant to KRS 227A.010 to 217A.140.

SECTION 6. A NEW SECTION OF KRS CHAPTER 227A IS CREATED TO READ AS FOLLOWS:

Nothing in KRS 227A.010 to 227A.140 shall apply to low-voltage, power-limited installations for control or coordination of interconnected devices separated from a power source by a Class 2 or Class 3 transformer installed by a low-voltage installer certificate holder. The office shall set the standards for experience and testing for issuance of a low-voltage installer certificate by administrative regulation and may charge a fee to be set by the office by administrative regulation but not to exceed the actual cost of issuance of the certificate.

Section 7. Whereas it is necessary to provide a pending license for electricians in the Commonwealth in order that they may continue to work while they are waiting for a decision regarding their application for a permanent license, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Calendar

HB 551, HJR 142, HR 155, HB 147, 373, 485, 510, 297, 323, 489, 498, 518, 499, SB 45, HB 290, 512, 519, 528, 535, and **549** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Senate Message

Announcing passage **SB 95, 151, 152, 153, 154,** and **156**. (Time: 2:10 p.m.)

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committee

The Committee on Rules reported that **HB 147, 290, 297, 323, 373, 485, 498, 518, 535, 549, 551, HJR 142, HR 155, HB 296, HCR 120, HCR 121, 122,** and **123** have been posted for passage in the Regular Orders of the Day for February 26, 2004.

The Committee on Rules reported that the following Bills have been recommitted:

Agriculture and Small Business: **HB 512**

Appropriations and Revenue: **HB 435, 436, 483**

Representative Marzian moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Marzian moved the adoption of the following **Legislative Citation No. 54**.

The House of Representatives of the Commonwealth of Kentucky hereby offers sincerest congratulations to the members of the Assumption High School Girls Field Hockey Team whose outstanding performance during the 2003 season has resulted in this talented group of athletes winning the Apple Tournament; their second consecutive state championship title; and, finishing the season with a pristine record of 24-0. These notable achievements are the result of the extraordinary effort, perseverance and hard work put forth by the members and coaching staff of this team, who are applauded for demonstrating such dedication in pursuit of these noteworthy accomplishments. The members of this honorable body are delighted to join with Representative Mary Lou Marzian in commending the members of the Assumption High School Girls Field Hockey Team for the great honor and acclaim that they continue to bring to the Jefferson County community and this Commonwealth and in extending best wishes for future monuments of athletic success. Done in Frankfort, Kentucky, this twenty-fifth day of February, in the year two thousand and four.

Legislative Citation No. 54 was adopted without objection.

Orders of the Day

HB 199, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ballard moved the adoption of the Committee Substitute to **HB 199**. Agreed.

Representative Hall moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 199**. Agreed.

Representative Ballard moved that **HB 199**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 25, 2004, roll call on **HB 199** - Appendix.)

HB 199, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Ballard moved that the vote by which **HB 199**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 406 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved that **HB 406** be passed.

On the roll call the vote was: **Yeas 90, Nays 0**. (See February 25, 2004, roll call on **HB 406** - Appendix.)

HB 406 was passed and the title agreed to.

Representative A. Arnold moved that the vote by which **HB 406** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 427 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved that **HB 427** be passed.

On the roll call the vote was: **Yeas 78, Nays 11**. (See February 25, 2004, roll call on **HB 427** - Appendix.)

HB 427 was passed and the title agreed to.

Representative A. Arnold moved that the vote by which **HB 427** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 143 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sims moved that **HJR 143** be adopted.

On the roll call the vote was: **Yeas 100, Nays 0**. (See February 25, 2004, roll call on **HJR 143** - Appendix.)

HJR 143 was adopted.

Representative Sims moved that the vote by which **HJR 143** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 400, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Thompson moved the adoption of the Committee Substitute to **HB 400**. Agreed.

Representative T. Thompson moved that **HB 400**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 100, Nays 0.** (See February 25, 2004, roll call on **HB 400** - Appendix.)

HB 400, by way of Committee Substitute, was passed and the title agreed to.

Representative T. Thompson moved that the vote by which **HB 400**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 36 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Siler moved that **HB 36** be passed.

On the roll call the vote was: **Yeas 100, Nays 0.** (See February 25, 2004, roll call on **HB 36** - Appendix.)

HB 36 was passed and the title agreed to.

Representative Siler moved that the vote by which **HB 36** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 124 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pasley moved that **HCR 124** be adopted.

On the roll call the vote was: **Yeas 97, Nays 0.** (See February 25, 2004, roll call on **HCR 124** - Appendix.)

HCR 124 was adopted.

Representative Pasley moved that the vote by which **HCR 124** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 456, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of Floor Amendment No. 1 to **HB 456**. Agreed.

Representative Damron moved that **HB 456**, as amended, be passed.

On the roll call the vote was: **Yeas 100, Nays 0.** (See February 25, 2004, roll call on **HB 456** - Appendix.)

HB 456, as amended, was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 456**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins moved that the rules be suspended to waive the posting requirement on the following: **SB 118**. Agreed.

Representative Adkins moved that the following bills be recommitted to the Committee on Judiciary: **HB 444, 256,** and 257. Agreed.

Representative Adkins moved that **HB 95** be withdrawn pursuant to the request of the primary sponsor. Agreed.

Representative Miller moved the adoption of the following **Legislative Citation No. 55.**

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in honor of Mary Mullins for her many years of dedicated community service and outstanding contributions to the City of Louisville and Jefferson County, Kentucky. Credited with being instrumental in bringing a much-needed hospital to the southwestern community, she has devoted tremendous time and energy in service to her fellow citizens. Her dedicated efforts include service on the YMCA and Metropolitan Sewer District Boards of Directors; her contributions as a member of the Louisville and Jefferson County Planning Commission, Leadership Louisville, the Federation of Republican Women, the Center for Women, the National

Conference of Christians and Jews, Jefferson Community College, and the Valley Woman's Club, where she served as president for ten years and remains very active. Whereas, the strength of our communities depend in great part on the commitment of those who are willing to give abundantly of those personal offerings that will make a positive difference in the lives of others, this august body is pleased to join Representative Charles Miller in praising Mary Mullins for serving as a shining example of outstanding citizenship and in extending expressions of deepest appreciation for her hard work and her generous contributions to the common good. Done in Frankfort, Kentucky, this twenty-fifth day of February, in the year two thousand and four.

Legislative Citation No. 55 was adopted without objection.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions

HB 593, by Representative Palumbo: AN ACT relating to economic development.

HB 594, by Representative Westrom: AN ACT relating to offender registration and declaring an emergency.

HB 595, by Representatives Marzian, Thomas, Jenkins, L. Clark, Burch, Stein, Miller, Meade, Wayne, Pasley, Nelson, Meeks, Coleman, Graham, Palumbo, Horlander, Hoffman, De. Butler, Edmonds, Belcher, and Westrom: AN ACT relating to prescriptive authority of advanced registered nurse practitioners.

HB 596, by Representatives Denham, Webb, and McKee: AN ACT relating to covered wooden bridges and declaring an emergency.

HB 597, by Representative Palumbo: AN ACT relating to special private club licenses.

HB 598, by Representative Palumbo: AN ACT relating to private clubs.

HB 599, by Representative Burch: AN ACT relating to retail gasoline sales.

HB 600, by Representative Bather: AN ACT relating to the human service delivery program.

HB 601, by Representative Geveden: AN ACT relating to the Kentucky Historical Events Celebration Commission.

HB 602, by Representatives Meeks and Burch: AN ACT relating to child safety.

HB 603, by Representative Rasche: AN ACT relating to programs.

HB 604, by Representative Rasche: AN ACT relating to school personnel.

HB 605, by Representative Damron: AN ACT relating to establishment of an interstate compact to regulate designated insurance products.

HB 606, by Representative P. Clark: AN ACT relating to domestic relations.

HB 607, by Representative Kerr: AN ACT relating to motor vehicle insurance.

HB 608, by Representative Graham: AN ACT relating to exemptions from jury service.

HB 609, by Representatives Thomas and Comer: AN ACT relating to administrative regulations.

HB 610, by Representative Stein: AN ACT relating to voluntary certification of home schools.

HJR 192, by Representative Collins: A JOINT RESOLUTION naming the "World War II Veterans Memorial Bridge" in Johnson County.

HR 193, by Representative Higdon: A RESOLUTION recognizing the Kentucky Festivals and Events Association as a premier organization that represents festivals and events in Kentucky.

HCR 194, by Representative Collins: A CONCURRENT RESOLUTION urging the United States Congress to amend provisions of the Motor Carrier Safety Improvement Act before the act is implemented in 2005.

HJR 195, by Representative Rasche: A JOINT RESOLUTION urging the Kentucky Board of Education and the Kentucky Department of Education to provide guidance to local school districts regarding ways to combat the growing problem of overweight and obesity among students.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Judiciary: **HB 48, 51, 547, 563, 574**

Report of Committees (Continued)

The Committee on Judiciary reported **HB 25**, with Committee Substitute attached thereto, **HB 517**, with Committee Substitute attached thereto, and **HCR 112** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 25, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.1432 is amended to read as follows:

(1) A person is guilty of *unlawful manufacture of*[~~manufacturing~~] methamphetamine when he *or she* knowingly[~~ and unlawfully~~]:

(a) *Unlawfully* manufactures methamphetamine; or

(b) Possesses *all of* the chemicals or *all of the* equipment for the manufacture of methamphetamine with the intent to *unlawfully* manufacture methamphetamine.

(2) *Unlawful* manufacture of methamphetamine is a Class B felony for the first offense and a Class A felony for a second or subsequent offense.

SECTION 2. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of possession of chemicals or equipment for the unlawful manufacture of methamphetamine in the first degree when he or she knowingly and with the intent to unlawfully manufacture methamphetamine:

(a) Possesses five (5) or more, but not all, of the chemicals for the manufacture of methamphetamine; or

(b) Possesses five (5) or more, but not all, of the items of equipment for the manufacture of methamphetamine.

(2) Possession of chemicals or equipment for the unlawful manufacture of methamphetamine in the first degree is a Class C felony for the first offense and a Class B felony for a second or subsequent offense.

SECTION 3. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of possession of chemicals or equipment for the unlawful manufacture of methamphetamine in the second degree when he or she knowingly and with the intent to unlawfully manufacture methamphetamine:

(a) Possesses at least two (2) but fewer than five (5) of the chemicals for the manufacture of methamphetamine; or

(b) Possesses at least two (2) but fewer than five (5) of the items of equipment for the manufacture of methamphetamine.

(2) Possession of chemicals or equipment for the unlawful manufacture of methamphetamine in the second degree is a Class D felony for the first offense and a Class C felony for a second or subsequent offense.

The Committee Substitute to **HB 25** is as follows:

HB 25, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.1438 is amended to read as follows:

(1) A person is guilty of unlawful *trafficking in or transfer*[~~distribution~~] of a methamphetamine precursor *specified in Section 2 of this Act* when he or she*:*

(a) Knowingly and unlawfully traffics in or transfers; or

(b) With reckless disregard as to how the drug product or drug products will be used, traffics in or transfers;

Any drug product or combination of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or any of their salts, isomers, or salts of isomers, if the person knows, has reason to know, or in the exercise of due diligence should have known that the purchaser or transferee intends to use the drug products or combination of drug products to illegally traffic in methamphetamine[~~knowingly and unlawfully sells, transfers, distributes, dispenses, or possesses with the intent to sell, transfer, distribute, or dispense any drug product or combination of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or any of their salts, isomers, or salts of isomers, if the person knows that the purchaser intends that the drug product or combination of drug products will be used as a precursor to methamphetamine or other controlled substance, or if the person sells, transfers, distributes, or dispenses the drug product or combination of drug products with reckless disregard as to how the drug product or combination of drug products will be used~~].

(2) ***As used in this section "reckless" has the same meaning as "recklessly" does in KRS 501.010.***

(3) Unlawful ***trafficking in or transfer***[~~distribution~~] of a methamphetamine precursor is a Class D felony for the first offense and a Class C felony for each subsequent offense.

Section 2. KRS 218A.1437 is amended to read as follows:

(1) A person is guilty of unlawful possession of a methamphetamine precursor when he or she knowingly and unlawfully possesses a drug product or combination of drug products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, with the intent to use the drug product or combination of drug products as a precursor to ***illegally traffic in or transfer*** methamphetamine[~~ or other controlled substance~~].

(2) (a) Except as provided in paragraph (b) of this subsection, possession of a drug product or combination of drug products containing more than twenty-four (24) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, shall constitute prima facie evidence of the intent to use the drug product or combination of drug products as a precursor to ***illegally traffic in or transfer*** methamphetamine[~~ or other controlled substance~~].

(b) The prima facie evidence referred to in paragraph (a) of this subsection shall not apply to the following persons who lawfully possess a drug product or combination of drug products listed in subsection (1) of this section in the course of legitimate business:

1. A retail distributor of drug products or wholesaler of drug products or its agent;
2. A wholesale drug distributor, or its agent, issued a permit by the Board of Pharmacy;
3. A pharmacist licensed by the Board of Pharmacy;
4. A pharmacy permitted by the Board of Pharmacy;
5. A licensed health care professional possessing the drug products in the course of carrying out his or her profession;
6. A trained chemist working in a properly equipped research laboratory in an education, government, or corporate setting; or
7. A common carrier under contract with any of the persons or entities set out in subparagraphs 1. to 6. of this paragraph.

(3) Unlawful possession of a methamphetamine precursor is a Class D felony for the first offense and a Class C felony for each subsequent offense.

Section 3. KRS 218A.010 is amended to read as follows:

As used in this chapter:

(1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:

(a) A practitioner or by his authorized agent under his immediate supervision and pursuant to his order; or

(b) The patient or research subject at the direction and in the presence of the practitioner.

(2) "Anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances listed in KRS 218A.090(5) but does not include estrogens, progestins, and anticosteroids.

(3) "Cabinet" means the Cabinet for Health Services.

(4) "Controlled substance" means methamphetamine, or a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue.

(5) (a) "Controlled substance analogue", except as provided in subparagraph (b), means a substance:

1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and
2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or
3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.

(b) Such term does not include:

1. Any substance for which there is an approved new drug application;
2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such

exemption; or

3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance.

(6) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(7) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(8) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V controlled substance to or for the use of an ultimate user.

(9) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(10) "Drug" means:

(a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;

(b) Substances intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man or animals;

(c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and

(d) Substances intended for use as a component of any article specified in this subsection.

It does not include devices or their components, parts, or accessories.

(11) "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

(12) "Isomer" means the optical isomer, except as used in KRS 218A.050(3) and 218A.070(1)(d). As used in KRS 218A.050(3), the term "isomer" means the optical, positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term "isomer" means the optical or geometric isomer.

(13) "Manufacture"~~[, except as provided in KRS 218A.1431,]~~ means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:

(a) By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or

(b) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or

(c) By a pharmacist as an incident to his dispensing of a controlled substance in the course of his professional practice.

(14) "Marijuana" means all parts of the plant Cannabis sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances.

(15) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a) of this subsection, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;

(e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

(f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and

(g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) to (f) of this subsection.

(16) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.030, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(17) "Opium poppy" means the plant of the species papaver somniferum L., except its seeds.

(18) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

(19) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(20) "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy.

(21) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, optometrist as authorized in KRS 320.240, or other person licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state. "Practitioner" also includes a physician, dentist, podiatrist, or veterinarian who is a resident of and actively practicing in a state other than Kentucky and who is licensed and has prescriptive authority for controlled substances under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail.

(22) "Prescription" means a written, electronic, or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals.

(23) "Prescription blank," with reference to a controlled substance, means a document that meets the requirements of KRS 218A.204 and 217.216.

(24) "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

(25) "Second or subsequent offense" means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter.

(26) "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution.

(27) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

1. Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
2. Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers;
3. Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers.

(28) "Traffic~~[,]~~"~~[except as provided in KRS 218A.1431,]~~ means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance.

(29) "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution.

(30) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

Section 4. KRS 250.991 is amended to read as follows:

(1) Except as provided in KRS 250.489 or 250.4892, any person who violates any provision of KRS 250.482 to 250.488 shall be fined not more than five hundred dollars ($500).

(2) Any person who knowingly possesses anhydrous ammonia in a container other than an approved container in violation of KRS 250.489 is guilty of a Class D felony~~[unless it is proven that the person violated KRS 250.489 with the intent to manufacture methamphetamine in violation of KRS 218A.1432, in which case it is a Class B felony]~~ for the first offense and a Class *(C)*~~[A]~~ felony for each subsequent offense.

(3) A violation of KRS 250.4892 is a Class D felony~~[unless it is proven that the person violated KRS 250.4892 with the intent to manufacture methamphetamine in violation of KRS 218A.1432, in which case it is a Class B felony]~~ for the first offense and a Class *(C)*~~[A]~~ felony for each subsequent offense.

Section 5. KRS 218A.1402 is amended to read as follows:

Any person who commits a ***criminal attempt as defined in KRS 506.010, criminal solicitation as defined in KRS 506.030,*** criminal conspiracy as defined in KRS 506.040***, or criminal facilitation as defined in KRS 506.080*** to traffic in a controlled substance or a controlled substance analogue shall be subject to the same penalties for trafficking in that controlled substance or a controlled substance analogue as specified in this chapter.

Section 6. KRS 514.030 is amended to read as follows:

(1) Except as otherwise provided in KRS 217.181 or 218A.1418, a person is guilty of theft by unlawful taking or disposition when he unlawfully:

(a) Takes or exercises control over movable property of another with intent to deprive him thereof; or

(b) Obtains immovable property of another or any interest therein with intent to benefit himself or another not entitled thereto.

(2) Theft by unlawful taking or disposition is a Class A misdemeanor unless the value of the property is three hundred dollars ($300) or more, in which case it is a Class D felony; or unless:

(a) The property is a firearm (regardless of the value of the firearm), in which case it is a Class D felony; or

(b) The property is anhydrous ammonia (regardless of the value of the ammonia), in which case it is a Class D felony[~~unless it is proven that the person violated this section with the intent to manufacture methamphetamine in violation of KRS 218A.1432, in which case it is a Class B felony~~] for the first offense and a Class ***(C)***[~~A~~] felony for each subsequent offense.

Section 7. KRS 514.110 is amended to read as follows:

(1) A person is guilty of receiving stolen property when he receives, retains, or disposes of movable property of another knowing that it has been stolen, or having reason to believe that it has been stolen, unless the property is received, retained, or disposed of with intent to restore it to the owner.

(2) The possession by any person of any recently stolen movable property shall be prima facie evidence that such person knew such property was stolen.

(3) Receiving stolen property is a Class A misdemeanor unless the value of the property is three hundred dollars ($300) or more, in which case it is a Class D felony; or unless:

(a) The property is a firearm, regardless of the value of the firearm, in which case it is a Class D felony; or

(b) The property is anhydrous ammonia, regardless of the value of the ammonia, in which case it is a Class D felony[~~unless it is proven that the person violated this section with the intent to manufacture methamphetamine in violation of KRS 218A.1432, in which case it is a Class B felony~~] for the first offense and a Class ***(C)***[~~A~~] felony for each subsequent offense.

Section 8. The following KRS sections are repealed:

218A.1431 Definitions for KRS 218A.1431 to 218A.1435 and KRS 218A.141.

218A.1432 Manufacturing methamphetamine -- Penalties.

HB 517, AN ACT relating to the administration of trusts and estates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 386.130 is amended to read as follows:

(1) If a deposit is made in a bank or trust company to the credit of a fiduciary as such, the bank or trust company may pay the amount of the deposit or any part thereof upon the check of the fiduciary, signed with the name in which the deposit is entered, without being liable to the principal, unless it pays the check with actual knowledge that the fiduciary is committing a breach of his ***or her*** obligation as fiduciary in drawing the check or with knowledge of such facts that its action in paying the check amounts to bad faith.

(2) If a check is drawn upon the account of his ***or her*** principal by a fiduciary empowered to draw checks upon his ***or her*** principal's account, the bank or trust company may pay the check without being liable to the principal, unless it pays the check with actual knowledge that the fiduciary is committing a breach of his ***or her*** obligation as fiduciary in drawing the check or with knowledge of such facts that its action in paying the check amounts to bad faith.

The Committee Substitute to **HB 517** is as follows:

HB 517, AN ACT relating to the administration of trusts and estates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

ARTICLE 1

DEFINITIONS AND FIDUCIARY DUTIES

SECTION 1. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) "Accounting period" means a calendar year unless another twelve (12) month period is selected by a fiduciary. The term includes a portion of a calendar year or other twelve (12) month period that begins when an income interest

begins or ends when an income interest ends;

(2) "Beneficiary" includes, in the case of a decedent's estate, an heir, legatee, and devisee and, in the case of a trust, an income beneficiary and a remainder beneficiary;

(3) "District Court approval" means the consent of:

(a) All current beneficiaries;

(b) All remainder beneficiaries in the oldest generation; and

(c) The court;

(4) "Fiduciary" means a personal representative or a trustee. The term includes an executor, administrator, successor personal representative, and public administrator;

(5) "Income" means money or property that a fiduciary receives as current return from a principal asset. The term includes a portion of receipts from a sale, exchange, or liquidation of a principal asset, to the extent provided in Articles 4 and 5 of the Kentucky Principal and Income Act;

(6) "Income beneficiary" means a person to whom net income of a trust is or may be payable;

(7) "Income interest" means the right of an income beneficiary to receive all or part of net income, whether the terms of the trust require it to be distributed or authorize it to be distributed in the trustee's discretion;

(8) "Mandatory income interest" means the right of an income beneficiary to receive net income that the terms of the trust require the fiduciary to distribute;

(9) "Net income" means the total receipts allocated to income during an accounting period minus the disbursements made from income during the period, plus or minus transfers under Sections 1 to 27 of this Act to or from income during the period;

(10) "Principal" means property held in trust for distribution to a remainder beneficiary when the trust terminates;

(11) "Remainder beneficiary" means a person entitled to receive principal when an income interest ends;

(12) "Terms of a trust" means the manifestation of the intent of a settlor or decedent with respect to the trust, expressed in a manner that admits of its proof in a judicial proceeding, whether by written or spoken words or by conduct; and

(13) "Trustee" includes an original, additional, or successor trustee, whether or not appointed or confirmed by a court.

SECTION 2. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) In allocating receipts and disbursements to or between principal and income, and with respect to any matter within the scope of Articles 2 and 3 of the Kentucky Principal and Income Act, a fiduciary:

(a) Shall administer a trust or estate in accordance with the terms of the trust or the will, even if there is a different provision in Sections 1 to 27 of this Act;

(b) May administer a trust or estate by the exercise of a discretionary power of administration given to the fiduciary by the terms of the trust or the will, even if the exercise of the power produces a result different from a result required or permitted by Sections 1 to 27 of this Act;

(c) Shall administer a trust or estate in accordance with Sections 1 to 27 of this Act if the terms of the trust or the will do not contain a different provision or do not give the fiduciary a discretionary power of administration; and

(d) Shall add a receipt or charge a disbursement to principal to the extent that neither the terms of the trust nor Sections 1 to 27 of this Act provide a rule for allocating the receipt or disbursement to or between principal and income.

(2) In exercising the power to adjust under subsection (2) or (3) of Section 3 of this Act or a discretionary power of administration regarding a matter within the scope of Sections 1 to 27 of this Act, whether granted by the terms of a trust, a will, or Sections 1 to 27 of this Act, a fiduciary shall administer a trust or estate impartially, based on what is fair and reasonable to all of the beneficiaries, except to the extent that the terms of the trust or the will clearly manifest a contrary intention. Except as provided in this subsection, determination in accordance with Sections 1 to 27 of this Act shall be presumed to be fair and reasonable to all of the beneficiaries.

SECTION 3. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any provision of Kentucky law to the contrary, the trustee of a trust to which by law KRS 287.277 does not apply may elect to have such provisions apply to the administration of the trust with approval of the District Court.

(2) A trustee may adjust between principal and income to the extent the trustee considers necessary if KRS 287.277 applies by law or by election made and approved under subsection (1) of this Act, the terms of the trust describe the amount that may or shall be distributed to a beneficiary by referring to the trust's income, the trustee determines, after applying the rules in subsection (1) of Section 2 of this Act, that the trustee is unable to comply with subsection (2) of Section 2 of this Act and the adjustment, including an adjustment method such as an annual percentage distribution if the percentage is not less than three percent (3%) nor more than five percent (5%) of the fair market value of the trust assets determined annually, is approved by the District Court.

(3) (a) A personal representative may adjust between principal and income in the same manner as a trustee if KRS 287.277 applies to the personal representative by law or if the personal representative elects to have KRS 287.277 apply to the administration of the estate, upon approval of the District Court, which approval may be an adjustment method such as an annual percentage distribution if the percentage is not less than three percent (3%) nor more than five percent (5%) of the fair market value of the trust assets determined annually, and:

1. The amount distributable to a beneficiary of the estate is determined by reference to the income of the estate; and

2. The personal representative determines, and after applying the rules of subsection (1) of Section 2 of this Act, that the personal representative is unable to comply with subsection (2) of Section 2 of this Act.

(4) A fiduciary shall not make an adjustment:

(a) That diminishes the income interest in a trust that requires all of the income to be paid at least annually to a spouse and for which an estate tax or gift tax marital deduction would be allowed, in whole or in part, if the fiduciary did not have the power to make the adjustment;

(b) That reduces the actuarial value of the income interest in a trust to which a person transfers property with the intent to qualify for a gift tax exclusion;

(c) That changes the amount payable to a beneficiary as a fixed annuity or a fixed fraction of the value of the trust assets;

(d) From any amount that is permanently set aside for charitable purposes under a will or the terms of a trust unless both income and principal are so set aside;

(e) If possessing or exercising the power to make an adjustment causes an individual to be treated as the owner of all or part of the trust or estate for income tax purposes, and the individual would not be treated as the owner if the fiduciary did not possess the power to make an adjustment;

(f) If possessing or exercising the power to make an adjustment causes all or part of the trust or estate assets to be included for estate tax purposes in the estate of an individual who has the power to remove a fiduciary, appoint a fiduciary, or both, and the assets would not be included in the estate of the individual if the fiduciary did not possess the power to make an adjustment;

(g) If the fiduciary is a beneficiary of the trust or estate; or

(h) If the fiduciary is not a beneficiary, but the adjustment would benefit the fiduciary directly or indirectly; except that any effect on the fiduciary's compensation shall not preclude an adjustment so long as the fiduciary's fees are reasonable and otherwise comply with the applicable law.

(5) If paragraph (e), (f), (g), or (h) of subsection (4) of this section applies to a fiduciary and there is more than one (1) fiduciary, a cofiduciary to whom the provision shall not apply may make the adjustment unless the exercise of the power by the remaining fiduciary or fiduciaries is not permitted by the terms of the trust.

(6) A fiduciary may release the entire power conferred by subsection (2) or (3) of this section or may release only the power to adjust from income to principal or the power to adjust from principal to income if the fiduciary is uncertain about whether possessing or exercising the power will cause a result described in paragraphs (a) to (f) of subsection (4) of this section or paragraph (h) of subsection (4) of this section, or if the fiduciary determines that possessing or exercising the power will or may deprive the trust of a tax benefit or impose a tax burden not described in subsection (4) of this section. The release may be permanent or for a specified period, including a period measured by the life of an individual. Such release shall require approval of the District Court. Further, with approval of the District Court, a fiduciary may divide a trust into one (1) or more fractional shares if the division does not change the beneficial interests.

(7) Terms of a trust or will that limit the power of a fiduciary to make an adjustment between principal and income do not affect the application of this section unless it is clear from the terms of the trust or will that the terms are intended to deny the fiduciary the power of adjustment conferred by subsection (2) or (3) of this section.

ARTICLE 2

DECEDENT'S ESTATE OR TERMINATING INCOME INTEREST

SECTION 4. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

After a decedent dies, in the case of an estate, or after an income interest in a trust ends, the following rules apply.

(1) A fiduciary of an estate or of a terminating income interest shall determine the amount of net income and net principal receipts received from property specifically given to a beneficiary under the rules in Articles 3, 4, and 5 of the Kentucky Principal and Income Act that apply to trustees and the rules in subsection (5) of this section. The fiduciary shall distribute the net income and net principal receipts to the beneficiary who is to receive the specific property.

(2) A fiduciary shall determine the remaining net income of a decedent's estate or a terminating income interest under the rules in Articles 3, 4, and 5 of the Kentucky Principal and Income Act that apply to trustees and by:

(a) Including in net income all income from property used to discharge liabilities;

(b) Paying from income or principal, in the fiduciary's discretion, fees to attorneys, accountants, and fiduciaries; court costs and other expenses of administration; and interest on death taxes, but the fiduciary may pay those expenses from income of property passing to a trust for which the fiduciary claims an estate tax marital or charitable deduction only to the extent that the payment of those expenses from income will not cause the reduction or loss of the deduction; and

(c) Paying from principal all other disbursements made or incurred in connection with the settlement of a decedent's estate or the winding up of a terminating income interest, including debts, funeral expenses, disposition of remains, family allowances, and death taxes and related penalties that are apportioned to the estate or terminating income interest by the will, the terms of the trust, or applicable law.

(3) A fiduciary shall distribute to a beneficiary who receives a pecuniary amount outright the interest or any other amount provided by the will, the terms of the trust, or applicable law from net income determined under subsection (2) of this section, or from principal to the extent that net income is insufficient. If a beneficiary is to receive a pecuniary amount outright from a trust after an income interest ends and no interest or other amount is provided for by the terms of the trust or applicable law, the fiduciary shall distribute the interest or other amount to which the beneficiary would be entitled under applicable law if the pecuniary amount were required to be paid under a will.

(4) A fiduciary shall distribute the net income remaining after distributions required by subsection (3) of this section in the manner described in Section 5 of this Act to all other beneficiaries, including a beneficiary who receives a pecuniary amount in trust, even if the beneficiary holds an unqualified power to withdraw assets from the trust or other presently exercisable general power of appointment over the trust.

(5) A fiduciary shall not reduce principal or income receipts from property described in subsection (1) of this section because of a payment described in Section 21 of this Act to the extent that the will, the terms of the trust, or applicable law requires the fiduciary to make the payment from assets other than the property or to the extent that the fiduciary recovers or expects to recover the payment from a third party. The net income and principal receipts from the property are determined by including all of the amounts the fiduciary receives or pays with respect to the property, whether those amounts accrued or became due before, on, or after the date of a decedent's death or an income interest's terminating event, and by making a reasonable provision for amounts that the fiduciary believes the estate or terminating income interest may become obligated to pay after the property is distributed.

SECTION 5. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) Each beneficiary described in subsection (4) of Section 4 of this Act is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in undistributed principal assets, using values as of the distribution date. If a fiduciary makes more than one (1) distribution of assets to beneficiaries to whom this section applies, each beneficiary, including one (1) who shall not receive part of the distribution, is entitled, as of each distribution date, to the net income the fiduciary has received after the date of the death or terminating event or earlier distribution date but has not distributed as of the current distribution date.

(2) In determining a beneficiary's share of net income, the following rules apply.

(a) The beneficiary is entitled to receive a portion of the net income equal to the beneficiary's fractional interest in the undistributed principal assets immediately before the distribution date, including assets that later may be sold to meet principal obligations.

(b) The beneficiary's fractional interest in the undistributed principal assets shall be calculated without regard to property specifically given to a beneficiary and property required to pay pecuniary amounts not in trust.

(c) The beneficiary's fractional interest in the undistributed principal assets shall be calculated on the basis of the aggregate value of those assets as of the distribution date without reducing the value by an unpaid principal obligation.

(d) The distribution date for purposes of this section may be the date as of which the fiduciary calculates the value of the assets if that date is reasonably near the date on which assets are actually distributed.

(3) If a fiduciary does not distribute all of the collected but undistributed net income to each person as of a distribution date, the fiduciary shall maintain appropriate records showing the interest of each beneficiary in that net income.

(4) A fiduciary may apply the rules in this section, to the extent that the fiduciary considers it appropriate, to net gain or loss realized after the date of death or terminating event or earlier distribution date from the disposition of a principal asset if this section applies to the income from the asset.

ARTICLE 3

APPORTIONMENT AT BEGINNING AND END OF INCOME INTEREST

SECTION 6. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) An income beneficiary is entitled to net income from the date on which the income interest begins. An income interest begins on the date specified in the terms of the trust or, if no date is specified, on the date an asset becomes subject to a

trust or successive income interest.

(2) An asset becomes subject to a trust:

(a) On the date it is transferred to the trust in the case of an asset that is transferred to a trust during the transferor's life;

(b) On the date of a testator's death in the case of an asset that becomes subject to a trust by reason of a will, even if there is an intervening period of administration of the testator's estate; or

(c) On the date of an individual's death in the case of an asset that is transferred to a fiduciary by a third party because of the individual's death.

(3) An asset becomes subject to a successive income interest on the day after the preceding income interest ends, as determined under subjection (4) of this section, even if there is an intervening period of administration to wind up the preceding income interest.

(4) An income interest ends on the day before an income beneficiary dies or another terminating event occurs, or on the last day of a period during which there is no beneficiary to whom a trustee may distribute income.

SECTION 7. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) A trustee shall allocate an income receipt or disbursement other than one to which subsection (1) of Section 4 of this Act applies to principal if its due date occurs before a decedent dies in the case of an estate or before an income interest begins in the case of a trust or successive income interest.

(2) A trustee shall allocate an income receipt or disbursement to income if its due date occurs on or after the date on which a decedent dies or an income interest begins and it is a periodic due date. An income receipt or disbursement shall be treated as accruing from day to day if its due date is not periodic or it has no due date. The portion of the receipt or disbursement accruing before the date on which a decedent dies or an income interest begins shall be allocated to principal and the balance shall be allocated to income.

(3) An item of income or an obligation is due on the date the payer is required to make a payment. If a payment date is not stated, there is no due date for the purposes of Sections 1 to 27 of this Act. Distributions to shareholders or other owners from an entity to which Section 9 of this Act applies are deemed to be due on the date fixed by the entity for determining who is entitled to receive the distribution or, if no date is fixed, on the declaration date for the distribution. A due date is periodic for receipts or disbursements that shall be paid at regular intervals under a lease or an obligation to pay interest or if an entity customarily makes distributions at regular intervals.

SECTION 8. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) In this section, "undistributed income" means net income received before the date on which an income interest ends. The term shall not include an item of income or expense that is due or accrued or net income that has been added or is required to be added to principal under the terms of the trust.

(2) When a mandatory income interest ends, the trustee shall pay to a mandatory income beneficiary who survives that date, or the estate of a deceased mandatory income beneficiary whose death causes the interest to end, the beneficiary's share of the undistributed income that is not disposed of under the terms of the trust unless the beneficiary has an unqualified power to revoke more than five percent (5%) of the trust immediately before the income interest ends. In the latter case, the undistributed income from the portion of the trust that may be revoked shall be added to principal.

(3) When a trustee's obligation to pay a fixed annuity or a fixed fraction of the value of the trust's assets ends, the trustee shall prorate the final payment if and to the extent required by applicable law to accomplish a purpose of the trust or its settlor relating to income, gift, estate, or other tax requirements. The settlor may change the charitable beneficiary of a trust by Will or through written notice to trustee, or may decline to make a change in like manner, so long as the change does not alter the income, gift, estate, or other tax benefits available under the terms of the trust.

ARTICLE 4

ALLOCATION OF RECEIPTS DURING ADMINISTRATION OF TRUST

SECTION 9. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) In this section, "entity" means a corporation, partnership, limited liability company, regulated investment company, real estate investment trust, common trust fund, or any other organization in which a trustee has an interest other than a trust or estate to which Section 10 of this Act applies.

(2) Except as otherwise provided in this section, a trustee shall allocate to income money received from an entity.

(3) A trustee shall allocate the following receipts from an entity to principal:

(a) Property other than money;

(b) Money received in one (1) distribution or a series of related distributions in exchange for part or all of a trust's interest in the entity;

(c) Money received in total or partial liquidation of the entity; and

(d) Money received from an entity that is a regulated investment company or a real estate investment trust, if the

money distributed is a capital gain dividend for federal income tax purposes.

(4) Money is received in partial liquidation:

  (a) To extent that the entity, at or near the time of a distribution, indicates that it is a distribution in partial liquidation; or

  (b) If the total amount of money and property received in a distribution or series of related distributions is greater than twenty percent (20%) of the entity's gross assets, as shown by the entity's year end financial statements immediately preceding the initial receipt.

(5) Money is not received in partial liquidation, nor may it be taken into account under paragraph (b) of subsection (4) of this section to the extent that it does not exceed the amount of income that a trustee or beneficiary shall pay on taxable income of the entity that distributes the money.

(6) A trustee may rely upon a statement made by an entity about the source or character of a distribution if the statement is made at or near the time of distribution by the entity's board of directors or other person or group of persons authorized to exercise powers to pay money or transfer property comparable to those of a corporation's board of directors.

SECTION 10. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

A trustee shall allocate to income an amount received as a distribution of income from a trust or an estate in which the trust has an interest other than a purchased interest, and shall allocate to principal an amount received as a distribution of principal from such a trust or estate. If a trustee purchases an interest in a trust that is an investment entity, or a decedent or donor transfers an interest in such a trust to a trustee, Section 9 of this Act applies to a receipt from the trust.

SECTION 11. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

A trustee shall allocate to principal:

(1) To the extent not allocated to income under Sections 1 to 27 of this Act, assets received from a transferor during the transferor's lifetime, a decedent's estate, a trust with a terminating income interest, or a payer under a contract naming the trust or its trustee as beneficiary;

(2) Money or other property received from the sale, exchange, liquidation, or change in form of a principal asset, including stock splits and realized profit, subject to this article;

(3) Amounts recovered from third parties to reimburse the trust because of disbursements described in subsection (1)(g) of Section 22 of this Act or for other reasons to the extent not based on the loss of income;

(4) Proceeds of property taken by eminent domain, but a separate award made for the loss of income with respect to an accounting period during which a current income beneficiary had a mandatory income interest is income;

(5) Net income received in an accounting period during which there is no beneficiary to whom a trustee may or shall distribute income;

(6) If a trustee grants an option to buy property from the trust, whether or not the trust owns the property when the option is granted, grants an option that permits another person to sell property to the trust, or acquires an option to buy property for the trust or an option to sell an asset owned by the trust, and the trustee or other owner of the asset is required to deliver the asset if the option is exercised, an amount received for granting the option shall be allocated to principal. An amount paid to acquire the option shall be paid from principal. A gain or loss realized upon the exercise of an option, including an option granted to a settlor of the trust for services rendered, shall be allocated to principal; and

(7) Other receipts as provided in Sections 15, 16, 17, 18, 19, and 20 of this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

To the extent that a trustee accounts for receipts from rental property under this section, the trustee shall allocate to income an amount received as rent of real or personal property, including an amount received for cancellation or renewal of a lease. An amount received as a refundable deposit, including a security deposit or a deposit that is applied as rent for future periods, shall be added to principal and held subject to the terms of the lease and is not available for distribution to a beneficiary until the trustee's contractual obligations have been satisfied with respect to that amount.

SECTION 13. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) An amount received as interest, whether determined at a fixed, variable, or floating rate, on an obligation to pay money to the trustee, including an amount received as consideration for prepaying principal, shall be allocated to income without any provision for amortization of premium.

(2) A trustee shall allocate to principal an amount received from the sale, redemption, or other disposition of an obligation to pay money to the trustee more than one (1) year after it is purchased or acquired by the trustee, including an obligation whose purchase price or value when it is acquired is less than its value at maturity. If the obligation matures within one (1) year after it is purchased or acquired by the trustee, an amount received in excess of its purchase price or its value when acquired by the trust shall be allocated to income.

(3) This section shall not apply to an obligation to which Section 12, 16, 17, 18, or 19 of this Act applies.

SECTION 14. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (2) of this section, a trustee shall allocate to principal the proceeds of a life insurance policy or other contract in which the trust or its trustee is named as beneficiary, including a contract that insures the trust or its trustee against loss for damage to, destruction of, or loss of title to a trust asset. The trustee shall allocate dividends on an insurance policy to income if the premiums on the policy are paid from income, and to principal if the premiums are paid from principal.

(2) A trustee shall allocate to income proceeds of a contract that insures the trustee against loss of occupancy or other use by an income beneficiary, loss of income, or loss of profits from a business.

(3) This section shall not apply to a contract to which Section 16 of this Act applies.

SECTION 15. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

If a trustee determines that an allocation between principal and income required by Section 16, 17, 18, or 19 of this Act is unsubstantial, the trustee may allocate the entire amount to principal unless one (1) of the circumstances described in subsection (4) of Section 3 of this Act applies to the allocation. This power may be exercised by a cotrustee in the circumstances described in subsection (4) of Section 3 of this Act and may be released for the reasons and in the manner described in subsection (6) of Section 3 of this Act. An allocation is presumed to be insubstantial if:

(1) The amount of the allocation would increase or decrease net income in an accounting period, as determined before the allocation, by less than ten percent (10%); or

(2) The value of the asset producing the receipt for which the allocation would be made is less than ten percent (10%) of the total value of the trust's assets at the beginning of the accounting period.

SECTION 16. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) In this section, "payment" means a payment that a trustee may receive over a fixed number of years or during the life of one (1) or more individuals because of services rendered or property transferred to the payer in exchange for future payments. The term includes a payment made in money or property from the payer's general assets or from a separate fund created by the payer, including a private or commercial annuity, an individual retirement account, and a pension, profit-sharing, stock-bonus, or stock-ownership plan.

(2) To the extent that a payment is characterized as interest or a dividend or a payment made in lieu of interest or a dividend, a trustee shall allocate it to income. The trustee shall allocate to principal the balance of the payment and any other payment received in the same accounting period that is not characterized as interest, a dividend, or an equivalent payment.

(3) If no part of a payment is characterized as interest, a dividend, or an equivalent payment and all or part of the payment is required to be made, a trustee shall allocate to income ten percent (10%) of the part that is required to be made during the accounting period and the balance to principal. If no part of a payment is required to be made or the payment received is the entire amount to which the trustee is entitled, the trustee shall allocate the entire payment to principal. For purposes of this subsection, a payment is not "required to be made" to the extent that it is made because the trustee exercises a right of withdrawal.

(4) If, to obtain an estate tax marital deduction for a trust, a trustee shall allocate more of a payment to income than provided for by this section, the trustee shall allocate to income the additional amount necessary to obtain the marital deduction.

(5) This section shall not apply to payments to which Section 17 of this Act applies.

SECTION 17. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) In this section, "liquidating asset" means an asset whose value will diminish or terminate because the asset is expected to produce receipts for a period of limited duration. The term includes a leasehold, patent, copyright, royalty right, and right to receive payments during a period of more than one (1) year under an arrangement that shall not provide for the payment of interest on the unpaid balance. The term shall not include an activity subject to Section 11(6) of this Act, payment subject to Section 16 of this Act, resources subject to Section 18 of this Act, timber subject to Section 19 of this Act, or any asset for which the trustee establishes a reserve for depreciation under Section 23 of this Act.

(2) A trustee shall allocate to income ten percent (10%) of the receipts from a liquidating asset and the balance to principal.

SECTION 18. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) To the extent that a trustee accounts for receipts from an interest in minerals or other natural resources pursuant to this section, the trustee shall allocate them as follows:

(a) If received as nominal delay rental or nominal annual rent on a lease, a receipt shall be allocated to income;

(b) If received from a production payment, a receipt shall be allocated to income if and to the extent that the agreement creating the production payment provides a factor for interest or its equivalent. The balance shall be allocated to principal;

(c) If an amount received as a royalty, shut-in-well payment, take-or-pay payment, bonus, or delay rental is more than nominal, ninety percent (90%) shall be allocated to principal and the balance to income; or

(d) If an amount is received from a working interest or any other interest not provided for in paragraph (a), (b), or (c) of this subsection, ninety percent (90%) of the net amount received shall be allocated to principal and the balance to income.

(2) An amount received on account of an interest in water that is renewable shall be allocated to income. If the water is not renewable, ninety percent (90%) of the amount shall be allocated to principal and the balance to income.

(3) Sections 1 to 27 of this Act apply whether or not a decedent or donor was extracting minerals, water, or other natural resources before the interest became subject to the trust.

(4) If a trust owns an interest in minerals, water, or other natural resources on the effective date of this Act, the trustee may allocate receipts from the interest as provided in Sections 1 to 27 of this Act or in the manner used by the trustee before the effective date of this Act. If the trust acquires an interest in minerals, water, or other natural resources after the effective date of this Act, the trustee shall allocate receipts from the interest as provided in Sections 1 to 27 of this Act.

(5) The proceeds from any disposition of an interest specified in this section shall be allocated in the same manner as receipts from the interest.

SECTION 19. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) To the extent that a trustee accounts for receipts from the sale of timber and related products pursuant to this section, the trustee shall allocate the net receipts:

(a) To income to the extent that the amount of timber removed from the land does not exceed the rate of growth of the timber during the accounting periods in which a beneficiary has a mandatory income interest;

(b) To principal to the extent that the amount of timber removed from the land exceeds the rate of growth of the timber or the net receipts are from the sale of standing timber;

(c) To or between income and principal if the net receipts are from the lease of timberland or from a contract to cut timber from land owned by a trust, by determining the amount of timber removed from the land under the lease or contract and applying the rules in paragraphs (a) and (b) of this subsection; or

(d) To principal to the extent that advance payments, bonuses, and other payments are not allocated pursuant to paragraphs (a), (b), or (c) of this subsection.

(2) In determining net receipts allocated under subsection (1) of this section, a trustee shall deduct and transfer to principal a reasonable amount for depletion.

(3) Sections 1 to 27 of this Act apply whether or not a decedent or transferor was harvesting timber from the property before it became subject to the trust.

(4) If a trust owns an interest in timberland on the effective date of this Act, the trustee may allocate net receipts from the sale of timber and related products as provided in Sections 1 to 27 of this Act or in the manner used by the trustee before the effective date of this Act. If the trust acquires an interest in timberland after the effective date of this Act, the trustee shall allocate net receipts from the sale of timber and related products as provided in Sections 1 to 27 of this Act.

SECTION 20. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) If a marital deduction is allowed for all or part of a trust, the spouse may require the trustee to make the trust income productive.

(2) In cases not governed by subsection (1) of this section, proceeds from the sale or other disposition of an asset are principal without regard to the amount of income the asset produces during any accounting period.

ARTICLE 5

ALLOCATION OF DISBURSEMENTS DURING ADMINISTRATION OF TRUST

SECTION 21. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

A trustee shall make the following disbursements from income to the extent that they are not disbursements to which subsection (2)(b) or (2)(c) of Section 4 of this Act applies:

(1) One-half (1/2) of the regular compensation of the trustee and of any person providing investment advisory or custodial services to the trustee, except as provided in KRS 386.180;

(2) One-half (1/2) of all expenses for accountings, judicial proceedings, or other matters that involve both the income and remainder interests;

(3) All of the other ordinary expenses incurred in connection with the administration, management, or preservation of trust property and the distribution of income, including interest, ordinary repairs, regularly recurring taxes assessed against principal, and expenses of a proceeding or other matter that concerns primarily the income interest; and

(4) Recurring premiums on insurance covering the loss of a principal asset or the loss of income from or use of the asset.

SECTION 22. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) A trustee shall make the following disbursements from principal:

(a) That portion of the regular compensation of the trustee and any person providing investment advisory or custodial services to the trustee not paid from income under subsection (1) of Section 21 of this Act;

(b) The remaining one-half (1/2) of the disbursements described in subsection (2) of Section 21 of this Act;

(c) All of the trustee's compensation calculated on principal as a fee for acceptance, distribution, or termination, and disbursements made to prepare property for sale;

(d) Payments on the principal of a trust debt;

(e) Expenses of a proceeding that concerns primarily principal, including a proceeding to construe the trust or to protect the trust or its property;

(f) Premiums paid on a policy of insurance not described in subsection (4) of Section 21 of this Act of which the trust is the owner and beneficiary;

(g) Estate, inheritance, and other transfer taxes, including penalties, apportioned to the trust; and

(h) Disbursements related to environmental matters, including reclamation, assessing environmental conditions, remedying and removing environmental contamination, monitoring remedial activities and the release of substances, preventing future releases of substances, collecting amounts from persons liable or potentially liable for the costs of those activities, penalties imposed under environmental laws or regulations and other payments made to comply with those laws or regulations, statutory or common law claims by third parties, and defending claims based on environmental matters.

(2) If a principal asset is encumbered with an obligation that requires income from that asset to be paid directly to the creditor, the trustee shall transfer from principal to income an amount equal to the income paid to the creditor in reduction of the principal balance of the obligation.

SECTION 23. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) In this section, "depreciation" means a reduction in value due to wear, tear, decay, corrosion, or gradual obsolescence of a fixed asset having a useful life of more than one (1) year.

(2) A trustee may transfer to principal a reasonable amount of the net cash receipts from a principal asset that is subject to depreciation, but shall not transfer any amount for depreciation:

(a) Of that portion of real property used or available for use by a beneficiary as a residence or of tangible personal property held or made available for the personal use or enjoyment of a beneficiary; or

(b) During the administration of a decedent's estate.

(3) An amount transferred to principal need not be held as a separate fund.

SECTION 24. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) If a trustee makes or expects to make a principal disbursement described in this section, the trustee may transfer an appropriate amount from income to principal in one (1) or more accounting periods to reimburse principal or to provide a reserve for future principal disbursements.

(2) Principal disbursements to which subsection (1) of this section applies include the following, but only to the extent that the trustee has not been and does not expect to be reimbursed by a third party:

(a) An amount chargeable to income but paid from principal because it is unusually large, including extraordinary repairs;

(b) A capital improvement to a principal asset, whether in the form of changes to an existing asset or the construction of a new asset, including special assessments;

(c) Disbursements made to prepare property for rental, including tenant allowances, leasehold improvements, and broker's commissions;

(d) Periodic payments on an obligation secured by a principal asset to the extent that the amount transferred from income to principal for depreciation is less than the periodic payments; and

(e) Disbursements described in subsection (1)(g) of Section 22 of this Act.

(3) If the asset whose ownership gives rise to the disbursements becomes subject to a successive income interest after an income interest ends, a trustee may continue to transfer amounts from income to principal as provided in subsection (1) of this section.

SECTION 25. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) A tax required to be paid by a trustee based on receipts allocated to income shall be paid from income.

(2) A tax required to be paid by a trustee based on receipts allocated to principal shall be paid from principal, even if the tax is called an income tax by the taxing authority.

(3) A tax required to be paid by a trustee on the trust's share of an entity's taxable income shall be paid proportionately:

(a) From income to the extent that receipts from the entity are allocated to income; and

(b) From principal to the extent that:

1. Receipts from the entity are allocated to principal; and

2. The trust's share of the entity's taxable income exceeds the total receipts described in paragraph (a) of this subsection and paragraph (b)1. of this subsection.

(4) For purposes of this section, receipts allocated to principal or income shall be reduced by the amount distributed to a beneficiary from principal or income for which the trust receives a deduction in calculating the tax.

SECTION 26. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) A fiduciary may, with District Court approval, make adjustments between principal and income to offset the shifting of economic interests or tax benefits between income beneficiaries and remainder beneficiaries which arise from:

(a) Elections and decisions, other than those described in subsection (2) of this section, that the fiduciary makes from time to time regarding tax matters;

(b) An income tax or any other tax that is imposed upon the fiduciary or a beneficiary as a result of a transaction involving, or a distribution from, the estate or trust; or

(c) The ownership by an estate or trust of an interest in an entity whose taxable income, whether or not distributed, is includable in the taxable income of the estate, trust, or a beneficiary.

(2) If the amount of an estate tax marital deduction or charitable contribution deduction is reduced because a fiduciary deducts an amount paid from principal for income tax purposes instead of deducting it for estate tax purposes and, as a result, estate taxes paid from principal are increased and income taxes paid by an estate, trust, or beneficiary are decreased, each estate, trust, or beneficiary that benefits from the decrease in income tax shall reimburse the principal from which the increase in estate tax is paid. The total reimbursement shall equal the increase in the estate tax to the extent that the principal used to pay the increase would have qualified for a marital deduction or charitable contribution deduction but for the payment. The proportionate share of the reimbursement for each estate, trust, or beneficiary whose income taxes are reduced shall be the same as its proportionate share of the total decrease in income tax. An estate or trust shall reimburse principal from income.

SECTION 27. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of Section 3 of this Act that allow a trustee to adopt the prudent investor rule and make allocations to income shall not apply to any trust without District Court approval.

(2) The provisions of Sections 1 to 27 of this Act, other than Section 3 of this Act, shall apply to all trusts administered under Kentucky law, except as otherwise specifically provided in the instrument creating the trust, regardless of when created.

ARTICLE 6

MISCELLANEOUS PROVISION

SECTION 28. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 27 of this Act may be cited as the " Kentucky Principal and Income Act."

SECTION 29. The following KRS sections are repealed:

386.191 Definitions for KRS 386.191 to 386.349.
386.195 Rules of trust administration.
386.205 Definition of income and principal.
386.215 Income interest -- Income beneficiary.
386.225 Determination and distribution of income.
386.235 Corporate distribution of shares.
386.245 Corporate securities.
386.255 Net profits of business.
386.265 Royalties and other receipts from disposition of natural resources.
386.275 Timber.
386.285 Other depletable property.
386.295 Delayed income from sale of underproductive property.
386.305 Charges against income.
386.315 Apportionment of expenses.
386.325 Application of KRS 386.191 to 386.459.
386.335 Construction of KRS 386.191 to 386.349.
386.345 Effective date -- Application on receipts and expenses.

386.349 Short title.

Section 30. This Act takes effect January 1, 2005.

HCR 112, A CONCURRENT RESOLUTION encouraging the Congress of the United States to enact legislation protecting our children by establishing an exclusive Internet domain extension of ".xxx", and requiring the posting and dissemination of obscene or pornographic materials to the designated domain.

WHEREAS, in recent years there has been a proliferation of pornographic Web sites on the Internet; and

WHEREAS, pornographic Web sites are easily accessible by children who may be negatively impacted by the materials posted on the Internet; and

WHEREAS, Congress has sought legislative solutions to this growing epidemic through the Children's Internet Protection Act; and

WHEREAS, the Children's Internet Protection Act requires that schools and libraries that receive specified federal funding certify that they have in place an Internet safety policy that includes monitoring the use of Internet access by children, and implementation of technology that will filter out objectionable content; and

WHEREAS, despite the attempts at protection of children that are in place, attempts to limit children's access to adult content on the Internet through filtering software and on-line informational Web sites designated by Internet service providers have been largely unsuccessful; and

WHEREAS, the evolving of adult content production on the Internet has led to a situation in which legal standards regarding content can no longer be enforced effectively or affordably; and

WHEREAS, it is in the best interest of our children and the entire nation to require operators of any Web site or on-line service whose primary business is making available material that is pornographic, obscene, or harmful to minors to register and operate the Web site or on-line service only under a domain specifically designated for pornographic or obscene materials; and

WHEREAS, the United States Internet Crime Task Force, Inc. recommends the passage of federal legislation establishing a ".xxx" Internet domain extension for pornographic or obscene materials; and

WHEREAS, the establishment of an ".xxx" Internet domain to be used exclusively for pornographic or obscene content on the Internet would make it more feasible for Internet service providers and software developers to effectively block access to this objectionable content;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Kentucky General Assembly hereby encourages the Congress of the United States of America to enact legislation protecting our children by establishing an exclusive Web domain extension of ".xxx", and requiring the posting and dissemination of obscene or pornographic materials to the designated domain.

Section 2. The Clerk of the Kentucky House of Representatives is directed to transmit a copy of this Resolution to the Clerk of the United States Senate, the Clerk of the United States House of Representatives, each member of Kentucky's Congressional Delegation, and Mr. David J. Evangelista, The United States Internet Crime Task Force, Inc., Post Office Box 875, Radcliff, Kentucky 40159-0875.

The Committee on Judiciary reported **HB 303,** with Committee Substitutes attached thereto, with the expression of opinion that the same should pass. Reported to the Committee on Rules.

The Committee Substitute No. 2 to **HB 303** is as follows:

HB 303, AN ACT relating to sexual offenders.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 17.495 is amended to read as follows:

(1) *(a)* No registrant, as defined in KRS 17.500,~~[who is placed on probation, parole, or any form of supervised release,]~~ shall reside within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, or licensed day care facility. The measurement shall be taken in a straight line from the nearest wall of the school to the nearest wall of the registrant's place of residence.

(b) The provisions of this subsection shall not apply to a person under the age of eighteen (18) years who, prior to becoming a registrant, resided at a location within one thousand (1,000) feet of a school specified in this subsection with his or her parents or guardian and who, following becoming a registrant, returns to the same location to reside with his or her parents or guardian. Upon reaching the age of eighteen (18) years the person covered by this paragraph shall comply with the provisions of this subsection and remove himself or herself to a location in excess of one thousand (1,000) feet from a school specified in this subsection.

(2) No registrant, as defined in KRS 17.500, nor any person residing outside of Kentucky who would be required to register under KRS 17.510 if the person resided in Kentucky, shall be on the clearly defined grounds of a high school, middle school, elementary school, preschool, or licensed day care facility, except with the advance written permission of the school principal, the school board, or the day care director which has been given after full disclosure of the person's status as a registrant and all registrant information as required in KRS 17.500.

Section 2. KRS 17.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 17.320 to 17.340 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500).

(2) Any public official or employee who knowingly or intentionally makes, or causes to be made, a false return of information to the department shall be punished by confinement in jail for not more than ninety (90) days, by a fine not exceeding five hundred dollars ($500), or both.

(3) (a) Any child-care center which violates KRS 17.165(4) or child-care provider that violates KRS 17.165(5) may be liable for license or certification revocation and the imposition of a civil penalty of not less than five hundred dollars ($500) and not more than one thousand dollars ($1,000) to be imposed and collected by the Cabinet for Families and Children; and

(b) In addition to penalties listed in this subsection, any child-care center which violates KRS 17.165(4) or child-care provider that violates KRS 17.165(5) shall be fined not less than five hundred dollars ($500) or more than one thousand dollars ($1,000).

(4) Any person who violates the provisions of subsection (2) of Section 1 of this Act shall be guilty of a Class A misdemeanor.

Motions, Petitions, and Communications (Continued)

Pursuant to House Rule 48, Representative Hoover filed a Discharge Petition, on **HB 13** signed by Representatives Montell, Rader, Marcotte, Crimm, Draud, Fischer, Baugh, Embry, Harmon, Farmer, Siler, Upchurch, DeWeese, Vincent, Feeley, Crall, S. Lee, Ford, Cornett, Stewart, Reinhardt, Nunn, Mobley, Brinkman, Napier, Harper, and Comer.

Pursuant to House Rule 48, Representative Couch filed a Discharge Petition, on **HJR 18** signed by Representatives Hoover, Montell, Rader, Marcotte, Crimm, Draud, Fischer, Baugh, Embry, Harmon, Farmer, Siler, Upchurch, DeWeese, Vincent, Feeley, Crall, S. Lee, B. Smith, Ford, Cornett, Stewart, Reinhardt, Nunn, Brinkman, Napier, Harper, and Comer.

Representative Pasley moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Pasley moved that he be recorded as voting "yea" on the motion to suspend the rules to consider the Discharge Petition on **SB 1**. Agreed.

Representative B. Smith moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative B. Smith moved that his vote be changed from "yea" to "nay" on **HB 427**. Agreed.

Representative Upchurch moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Upchurch moved that his vote be changed from "yea" to "nay" on **HB 427**. Agreed.

Representative Reinhardt moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that his vote be changed from "yea" to "abstain" on **HB 427**. Agreed.

Representative Reinhardt moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" on **HB 406**. Agreed.

Representative S. Lee moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative S. Lee moved that his vote be changed from "yea" to "nay" on **HB 406**. Agreed.

Representative Harmon moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Harmon moved that his vote be changed from "yea" to "nay" on **HB 406**. Agreed.

Representative Bather moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Bather moved that he be recorded as voting "yea" on **HB 466, 360, 71, 81, 450, 458, 314, 264, 445, 362, 420, 369, 162, 412, 388, 183, 321, 289, 106, 260, 359, 90, HCR 134, HJR 150, 129, 7, HR 158, 145, 151, HJR 43, 82, 54, 98, 46, 40,** and **HR 130**. Agreed.

Floor Amendments

Floor Amendment No. 1 to **HB 551**, by Representative Weaver:

HB 551, On page 1, lines 7 and 8, delete "***his or her honorable discharge***" and insert in lieu thereof: "***the conclusion of military leave***".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and a Resolution:

HB 18, Representative Palumbo

HB 36, Representative Hall

HB 188, Representative Palumbo

HB 400, Representative McKee

HB 475, Representative Palumbo

HB 537, Representative Hall

HB 572, Representative Belcher

HCR 17, Representative Napier

Announcements

The following meetings were announced:

Committee on Agriculture and Small Business - Thursday, February 26, 2004, meeting canceled

Minority Caucus - Upon adjournment, Room 316

Committee on Elections, Constitutional Amendments, and Intergovernmental Relations - Thursday, February 26, 2004, 10:00 a.m.

Committee on Transportation - Thursday, February 26, 2004, 10:00 a.m.

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 2:00 p.m., Thursday, February 26, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 2:00 p.m., Thursday, February 26, 2004, was adopted by voice vote.

THURSDAY, FEBRUARY 26, 2004

THIRTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Father Charles Ellestad, Church of the Ascension, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

Stephen Salyers sang Blue Moon of Kentucky.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of February 25, 2004, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Representative Nelson moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Nelson moved the adoption of the following **Legislative Citation No. 57**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the esteemed participants of Leadership Bell County an outstanding program that develops high caliber citizens who are well-informed about the quality of life and the infrastructure of their communities. Inasmuch as programs such as Leadership Bell County are a vital link in promoting the overall success of our communities and this fine Commonwealth, this honorable body is pleased to join with Representative Rick Nelson in commending the members of Leadership Bell County and graciously welcoming those in attendance on this day during the 2004 Regular Session of the Kentucky General Assembly. Done in Frankfort, Kentucky, this twenty-sixth day of February, in the year two thousand and four.

Legislative Citation No. 57 was adopted without objection.

Senate Message

Announcing passage: **SB 37, 111, 122, 138, 145,** and **163**. (Time: 2:10 p.m.)

Introduction of Bills and Resolutions

HB 611, by Representative Geveden: AN ACT relating to county clerks and making an appropriation therefor.

HB 612, by Representative Geveden: AN ACT relating to title companies.

HB 613, by Representatives Harmon, Fischer, Bratcher, S. Lee, Upchurch, Cornett, and Higdon: AN ACT proposing an amendment of the Constitution of Kentucky by creating a Section 3A relating to marriage.

HB 614, by Representative Palumbo: AN ACT relating to economic development.

HB 615, by Representative Wilkey: AN ACT proposing an amendment to Sections 109, 230, and 43 of the Constitution of Kentucky relating to the government of the Commonwealth of Kentucky.

HJR 196, by Representatives Webb, Collins, Gray, and Hall: A JOINT RESOLUTION relating to Emergency Action Plans for high and significant hazard dams.

HR 197, by Representatives T. Thompson and Palumbo: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Earl Mac "Mack" Cambron.

HCR 198, by Representative J. Adams: A CONCURRENT RESOLUTION requesting the Interim Joint Committee on Local Government to conduct a census of the planning units within the Commonwealth of Kentucky.

HR 199, by Representative Hall: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Sergeant Gary Brent Coleman.

HR 200, by Representative T. Thompson: A RESOLUTION adjourning the House of Representatives in honor of Senator Wendell H. Ford and praying for his speedy recovery.

HR 201, by Representative T. Thompson: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Bob D. Martin.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **HB 605, 607**

Economic Development: **HB 593, 609**

Education: **HB 603, 604, 610, HJR 195, SB 152**

Health and Welfare: **HB 595, 600, SB 153**

Judiciary: **HB 594, 606, 608**

Licensing and Occupations: **HB 597, 598, SB 156**

Natural Resources and Environment: **SB 154**

State Government: **HB 601, SB 151**

Tourism Development and Energy: **HB 599**

Transportation: **HB 596, 602, HJR 192, HCR 194**

House Floor: **HR 193**

Representative Adkins moved to suspend the rules to waive the posting requirement on: **HB 240, 395, 396, 397, HJR 103, 104,** and **105**. Agreed.

Representative Adkins moved to suspend the rules to retroactively waive the posting requirement on **HCR 17**. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and a Resolution have been posted for Committee consideration:

State Government: **HB 320, 493, 588, SB 150, HCR 161**

Report of Committees

The Committee on Health and Welfare reported **HB 251**, with Committee Substitute attached thereto, **HB 288, HB 342**, with Committee Substitute attached thereto, **HB 492**, with Committee Substitute attached thereto, and **HJR 65** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 251, AN ACT relating to lost and missing children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act, unless the context otherwise requires, "building" means any structure that houses offices of the Commonwealth of Kentucky or public offices of counties, municipalities, special districts, public corporations, public instrumentalities, or the Court of Justice.

SECTION 2. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

The "Code Adam" safety protocol is hereby established and shall be implemented by all administrators in public buildings in the following manner:

(1) When a parent, tutor, or guardian notifies any employee of a building that his or her child is lost or missing, the employee shall obtain from the parent, tutor, or guardian a detailed description of the minor, including but not limited to the name, age, color of eyes, height, weight, clothing, and the shoes the child was wearing at the time the child was last seen before becoming lost or missing.

(2) From the closest telephone available, the same employee shall alert the building administrator or the person designated in the building's "Code Adam" plan, and the building administrator shall notify the occupants of the building through the loudspeaker system or via any other fast and effective means of communication that "Code Adam" has been activated.

(3) The employee shall escort the parent, tutor, or guardian to the main door of the building to help in identifying the child.

(4) Persons designated by the administrator shall monitor all building exits to ascertain that the minor does not leave the building without the parent, tutor, or guardian. In addition, two (2) or more employees, as may be necessary, shall be assigned to search the parking areas of the building. This process shall not entail the closing or locking of any of the doors of the building.

(5) Any child, or person with a child, leaving the building shall be asked to go through the main exit previously designated by the administrator. If once there, the child or person insists on leaving the building, he or she shall be allowed to do so once it has been determined that the minor who is leaving is not the one being searched for and that the person with the minor is the parent, tutor, or guardian of the child, and the person presents a government-issued photo identification.

(6) After the activation of "Code Adam" has been announced through the building's loud speaker system or through any other fast and effective means of communication, the employees shall search throughout the entire building, and no less than two (2) employees, as many as shall be deemed necessary, shall be assigned to each floor to certify that the minor is not there. The employees that are directly serving a member of the public at the time and those employees who have been previously excluded by the administrator shall not be compelled to participate in the search.

(7) If the minor is found unharmed and seems to have been simply lost or missing in the building, the child shall be immediately taken to the parent, tutor, or guardian.

(8) If the minor is found in the company of any person other than the child's parent, tutor, or guardian, any reasonable means shall be taken to delay the exit of the child and the person with whom the child was found from the building until a peace officer arrives, and the child and the person with whom the child is found and both are properly identified and the circumstances of the situation determined.

(9) If the minor is not found within a ten (10) minute period, the building administrator shall notify a state or local law enforcement agency that a child is lost or missing and provide the information then known about the lost or missing child. The law enforcement agency shall respond to the scene and shall take control of the incident. The law enforcement agency may request that the local search and rescue coordinator provide additional resources to search for the lost or missing child. The law enforcement agency and the local dispatch center shall take the actions required by KRS 17.450, 17.460, and 39F.180.

(10) Upon the location of the lost or missing child or the arrival of a peace officer from the law enforcement agency which was notified of the lost or missing child, whichever occurs earlier, the building administrator shall cause an announcement of the ending of the "Code Adam" by the building loudspeaker or other fast and effective means of communication.

(11) Upon the ending of the "Code Adam," the building administrator shall prepare three (3) copies of a report of the incident, which shall:

(a) Be sent within three (3) working days to the Secretary of the Cabinet for Families and Children and the Commissioner of the Department of State Police; and

(b) Be kept in the administrative files of the building for a period of three (3) years from the date of the incident.

SECTION 3. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) The Secretary of the Cabinet for Families and Children, in consultation with the Department of State Police, shall:

(a) Be responsible for coordinating implementation of the "Code Adam" program throughout the Commonwealth;

(b) Provide training to administrators of buildings and employees designated by those administrators in the implementation of the "Code Adam" program;

(c) Provide training in procedures for the search of buildings and grounds for lost and missing children;

(d) Print and distribute signs to each public agency for use in their public building relating to the "Code Adam" program and how to initiate a "Code Adam." The signs shall be not less than twelve inches (12) square and have white letters and a purple background containing the information specified by the cabinet by administrative regulation;

(e) Provide for annually conducting a "Code Adam" drill at each facility covered by the provisions of Sections 1 to 4 of this Act;

(f) Provide for the collection of statistics from each facility covered by the provisions of Sections 1 to 4 of this Act on each "Code Adam" within the building;

(g) Provide an annual report to the Governor, the Department of State Police, the Legislative Research Commission, and the General Assembly on each "Code Adam" within the Commonwealth during the previous calendar year and the results of each "Code Adam" incident. The annual report shall be a public record and shall not include the name or other identifying information, other than gender and age, of the child; and

(h) Promulgate administrative regulations necessary for the implementation of the "Code Adam" program as required by Sections 1 to 4 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

The Secretary of the Cabinet for Families and Children, in consultation with the Department of State Police, may exempt any agency or building which, due to the nature of the services provided by that agency or building, is not visited by children. The agency or building shall immediately report to the Secretary of the Cabinet for Families and Children when the agency or building is likely to be visited by children on a frequent or continuing basis. Upon receipt of the notification from the building administrator or agency that the building is being visited by children, the exemption from compliance with the provisions of Sections 1 to 4 of this Act shall expire.

The Committee Substitute to **HB 251** is as follows:

HB 251, AN ACT relating to lost and missing children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act, unless the context otherwise requires, "state building" means any structure that houses government offices of the Commonwealth of Kentucky. The term does not include government offices of counties, municipalities, special districts, public corporations, public instrumentalities, or the Court of Justice.

SECTION 2. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

The "Code Adam" safety protocol is hereby established and shall be implemented by all administrators in state buildings in the following manner:

(1) When a parent, tutor, or guardian notifies any employee of a state building that his or her child is lost or missing, the employee shall obtain from the parent, tutor, or guardian a detailed description of the minor, including but not limited to the name, age, color of eyes, height, weight, clothing, and the shoes the child was wearing at the time the child was last seen before becoming lost or missing;

(2) From the closest telephone available, the same employee shall alert the state building administrator or the person designated in the state building's "Code Adam" plan, who shall then notify the occupants of the state building through the loudspeaker system or through any other fast and effective means of communication that "Code Adam" has been activated;

(3) The employee shall escort the parent, tutor, or guardian to the main door of the state building to help in identifying the child;

(4) Persons designated by the administrator shall monitor all state building exits to ascertain that the minor does not leave the state building without the parent, tutor, or guardian. In addition, two (2) or more employees, as may be necessary, shall be assigned to search the parking areas of the state building. This process shall not entail the closing or locking of any door of the state building;

(5) Any child, or person with a child, leaving the state building shall be asked to go through the main exit previously designated by the administrator. If, once there, the child or person wishes to leave the state building, he or she shall be allowed to do so after it has been determined that the minor who is leaving is not the child being searched for and that the person with the minor is the parent, tutor, or guardian of the child, and the person presents a government-issued photo identification;

(6) After "Code Adam" has been announced through the state building's loudspeaker system or through any other fast and effective means of communication, the employees shall search throughout the entire state building, and at least two (2) employees, or more as deemed necessary, shall be assigned to each floor to certify that the minor is not present. Employees who are directly serving a member of the public at that time and employees who have been previously excluded by the administrator shall not be compelled to participate in the search;

(7) If the minor is found unharmed and appears to have been simply lost or missing in the state building, the child shall be immediately taken to the parent, tutor, or guardian;

(8) If the minor is found in the company of any person other than the child's parent, tutor, or guardian, any reasonable means shall be taken to delay the exit of the child and the person with whom the child was found from the state building until a peace officer arrives, the child and the person with whom the child is found both are properly identified, and the circumstances of the situation are determined;

(9) If the minor is not found within a ten (10) minute period, the state building administrator shall notify a state or local law enforcement agency that a child is lost or missing and provide the information then known about the lost or missing child. The law enforcement agency shall respond to the scene and shall take control of the incident. The law enforcement agency may request that the local search and rescue coordinator provide additional resources to search for the lost or missing child. The law enforcement agency and the local dispatch center shall take the actions required by KRS 17.450, 17.460, and 39F.180;

(10) Upon the location of the lost or missing child or the arrival of a peace officer from the law enforcement agency which was notified of the lost or missing child, whichever occurs earlier, the state building administrator shall cause an announcement of the ending of the "Code Adam" by the state building loudspeaker or other fast and effective means

of communication; and

(11) Upon the ending of the "Code Adam," the state building administrator shall prepare three (3) copies of a report of the incident, which shall:

(a) Be sent within three (3) working days to the Secretary of the Finance and Administration Cabinet and the Commissioner of the Department of State Police; and

(b) Be kept in the administrative files of the state building for a period of three (3) years from the date of the incident.

SECTION 3. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) The Secretary of the Finance and Administration Cabinet, in consultation with the Justice Cabinet through the Department of State Police, shall:

(a) Be responsible for coordinating implementation of the "Code Adam" program throughout the Commonwealth;

(b) Provide training to administrators of state buildings and employees designated by those administrators in the implementation of the "Code Adam" program;

(c) Provide training in procedures for the search of state buildings and grounds for lost and missing children;

(d) Print and distribute signs to each public agency for use in each state building relating to the "Code Adam" program and how to initiate a "Code Adam." The signs shall be not less than twelve (12) inches square and have white letters and a purple background containing the information specified by the cabinet by administrative regulation;

(e) Provide for annually conducting a "Code Adam" drill at each facility covered by the provisions of Sections 1 to 4 of this Act;

(f) Provide for the collection of statistics from each facility covered by the provisions of Sections 1 to 4 of this Act on each "Code Adam" within the state building;

(g) Provide an annual report to the Governor, the Department of State Police, the Legislative Research Commission, and the General Assembly on each "Code Adam" within the Commonwealth during the previous calendar year and the results of each "Code Adam" incident. The annual report shall be a public record and shall not include the name or other identifying information, other than gender and age, of the child; and

(h) Promulgate administrative regulations necessary for the implementation of the "Code Adam" program as required by Sections 1 to 4 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

The Secretary of the Finance and Administration Cabinet, in consultation with the Justice Cabinet through the Department of State Police, may exempt any agency or state building which, due to the nature of the services provided by that agency or state building, is not visited by children. The agency or state building shall immediately report to the Secretary of the Finance and Administration Cabinet when the agency or state building is likely to be visited by children on a frequent or continuing basis. Upon receipt of the notification from the state building administrator or agency that the state building is being visited by children, the exemption from compliance with the provisions of Sections 1 to 4 of this Act shall expire.

HB 288, AN ACT relating to Medicaid oversight.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.940 is amended to read as follows:

(1) There is hereby established a Medicaid~~[Managed Care]~~ Oversight *and* Advisory Committee, consisting of ten (10) members appointed as follows: four (4) members of the Senate appointed by the President of the Senate; one (1) member of the minority party in the Senate appointed by the Minority Floor Leader in the Senate; four (4) members of the House of Representatives appointed by the Speaker of the House of Representatives; and one (1) member of the minority party in the House of Representatives appointed by the Minority Floor Leader in the House of Representatives. Members appointed from each chamber shall elect one (1) member from their chamber to serve as co-chair. The co-chairs shall have joint responsibilities for committee meeting agendas and presiding at committee meetings. The committee shall meet at least four (4) times annually and shall provide oversight on the implementation of Medicaid~~[managed care]~~ within the Commonwealth including access to services, utilization of services, quality of services, and cost containment.

(2) A majority of the entire membership of the Medicaid~~[Managed Care]~~ Oversight *and* Advisory Committee shall constitute a quorum, and all actions of the committee shall be by vote of a majority of its entire membership.

HB 342, AN ACT relating to vaccination for meningococcal meningitis disease.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby finds and declares that:

(1) Meningococcal meningitis disease is a potentially fatal infectious and contagious bacterial disease that can be spread by coughing and sharing drinking glasses;

(2) Since the disease often presents itself with flu-like symptoms, many victims of the disease die before it is even diagnosed. From 1991 to 1997 the cases of meningococcal meningitis disease in young adults fifteen (15) to twenty-four (24) years of age nearly doubled;

(3) Survivors of meningococcal meningitis disease may have severe after effects of the disease, including mental retardation, hearing loss, and loss of limbs;

(4) College freshmen residing on campus in dormitories or residence halls have a risk of meningococcal meningitis disease over seven (7) times higher than do college students overall;

(5) The meningococcal meningitis disease vaccine has been shown to be eighty-five percent (85%) to ninety percent (90%) effective in producing antibodies against the most common strains of the disease; and

(6) The Centers for Disease Control and Prevention (CDC) recommends that college freshmen and their parents be educated about meningococcal meningitis disease and that vaccination should be made easily available to freshmen and undergraduate students who want to reduce their risk of disease.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Institutions of higher learning shall require all persons enrolling as full-time students and living in student housing to present evidence of vaccination against meningococcal meningitis disease.

(2) Institutions of higher learning shall provide a person enrolling as a full-time student and the student's parent or guardian with detailed information on the risks associated with meningococcal meningitis disease and the availability and effectiveness of any vaccine, by mail, at least one (1) time per academic year.

(3) Institutions of higher learning shall not be required to provide or pay for vaccinations against meningococcal meningitis disease.

(4) The Cabinet for Health Services shall not be required to provide or pay for vaccinations against meningococcal meningitis disease.

(5) Institutions of higher learning shall exempt a person enrolling as a full-time student from presenting evidence of vaccination against meningococcal meningitis disease if, after receiving detailed information on the risks, availability, and effectiveness of the vaccine:

(a) The student presents a signed, written statement that the information provided has been received and reviewed and the student has chosen not to be vaccinated against meningococcal meningitis disease; or

(b) The student is a minor and the student's parent or guardian presents signs a signed, written statement that the information provided has been received and reviewed and the student has chosen not to be vaccinated against meningococcal meningitis disease.

The Committee Substitute to **HB 342** is as follows:

HB 342, AN ACT relating to vaccination for meningococcal meningitis disease.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby finds and declares that:

(1) Meningococcal meningitis disease is a potentially fatal infectious and contagious bacterial disease that can be spread by coughing and sharing drinking glasses;

(2) Since the disease often presents itself with flu-like symptoms, many victims of the disease die before it is even diagnosed. From 1991 to 1997 the cases of meningococcal meningitis disease in young adults fifteen (15) to twenty-four (24) years of age nearly doubled;

(3) Survivors of meningococcal meningitis disease may have severe after effects of the disease, including mental retardation, hearing loss, and loss of limbs;

(4) College freshmen residing on campus in dormitories or residence halls have a risk of meningococcal meningitis disease over seven (7) times higher than do college students overall;

(5) The meningococcal meningitis disease vaccine has been shown to be eighty-five percent (85%) to ninety percent (90%) effective in producing antibodies against the most common strains of the disease; and

(6) The Centers for Disease Control and Prevention (CDC) recommends that college freshmen and their parents be educated about meningococcal meningitis disease and that vaccination should be made easily available to freshmen and undergraduate students who want to reduce their risk of disease.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Each public or private educational institution that offers a postsecondary degree and has a residential campus shall

provide vaccination information on meningococcal meningitis disease to full-time students living in resident housing.

(2) The vaccination information shall be contained in the student housing or enrollment application or lease document and shall include a space for the student to indicate whether or not the student has received the vaccination against meningococcal meningitis disease. If institutions provide electronic enrollment or registration to first-time students, the information required by this section may be provided or collected electronically.

(3) Vaccination information about meningococcal meningitis disease shall include detailed information on the risks of the disease and any recommendations issued by the National Centers for Disease Control and Prevention.

(4) The vaccination information obtained under this section that is in the possession of the educational institution is confidential and shall not be a public record.

(5) This section shall not be construed to require the educational institution or the Cabinet for Health Services to provide or pay for the meningococcal menigitis disease vaccination.

HB 492, AN ACT relating to trauma care.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) (a) The Office of Trauma Care is established within the Cabinet for Health Services. The office shall consist of a state trauma director and a state trauma registrar, and additional staff as necessary to carry out the functions of the office.

(b) A trauma system advisory committee shall make recommendations to the Office of Trauma Care for the implementation or continuation of the duties set forth in this section. The committee shall be appointed by the secretary for health services and shall be composed of representatives from the Department for Public Health, the Board of Medical Licensure, the Board of Nursing, the Board of Emergency Medical Services, the Kentucky Medical Association, the Kentucky Nurses Association, and emergency medical services providers. The committee shall meet at least quarterly.

(2) The office, in consultation with the Board of Emergency Medical Services, the Board of Nursing, and the Board of Medical Licensure, shall develop a trauma system that is capable of recognizing necessary emergency levels of care for the appropriate delivery of a full range of care to all injured persons in the Commonwealth. The system shall be integrated with the public health system for injury prevention.

(3) The trauma system shall consist of the following components, subject to available funding:

(a) Hospital trauma center verification for levels I, II, III, and IV, with the American College of Surgeons;

(b) Prelicensure and precertification education and continuing education, as appropriate, about trauma care and procedures for emergency medical services personnel, physicians, and nurses;

(c) Triage protocols for use by the Board of Emergency Medical Services and hospitals;

(d) Quality assurance and peer review programs for emergency medical services; and

(e) Recognition of specialized needs of pediatric and geriatric patients.

(4) The office shall investigate possible sources of funding to offset expenses incurred in carrying out its duties, to assist with expenses incurred by hospitals seeking verification by the American College of Surgeons, and to assist with expenses incurred by health care providers in obtaining education relating to the trauma system.

(5) The office shall report to the Interim Joint Committee on Health and Welfare no later than December 1 of each year about the status of the development and implementation of the trauma system.

The Committee Substitute to **HB 492** is as follows:

HB 492, AN ACT relating to trauma care.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) (a) Subject to available funds, the Office of Trauma Care is established by the Cabinet for Health Services. The office shall, at a minimum, consist of a state trauma director and a state trauma registrar, and may contract with outside entities to perform these functions.

(b) A trauma system advisory committee shall make recommendations to the Office of Trauma Care for the implementation or continuation of the duties set forth in this section. The committee shall be appointed by the secretary for health services and shall be composed of representatives from the Department for Public Health, the Board of Medical Licensure, the Board of Nursing, the Board of Emergency Medical Services, the Kentucky Medical Association, the Kentucky Hospital Association, the Kentucky Nurses Association, the chair or vice-chair of the Kentucky Committee on Trauma of the American College of Surgeons, and emergency medical

services providers. The committee shall meet at least quarterly.

(2) The office, in consultation with the trauma system advisory committee, shall develop a trauma system that is capable of recognizing necessary emergency levels of care for the appropriate delivery of a full range of care to all injured persons in the Commonwealth. The system shall be integrated with the public health system for injury prevention.

(3) The trauma system shall consist of the following components, subject to available funding:

(a) Voluntary hospital trauma center verification for levels I, II, III, and IV, with the American College of Surgeons;

(b) Prelicensure and precertification education and continuing education, as appropriate, about trauma care and procedures for emergency medical services personnel, physicians, and nurses;

(c) Triage protocols for use by the Board of Emergency Medical Services and hospitals;

(d) Quality assurance and peer review programs for the trauma system; and

(e) Recognition of specialized needs of pediatric and geriatric patients.

(4) The office shall investigate possible sources of funding to offset expenses incurred in carrying out its duties, to assist with expenses incurred by hospitals seeking verification by the American College of Surgeons, and to assist with expenses incurred by health care providers in obtaining education relating to the trauma system. Any funds received by the Office of Trauma Care shall be placed in a trust and agency account which shall not lapse.

(5) The office shall report to the Interim Joint Committee on Health and Welfare no later than December 1 of each year about the status of the development and implementation of the trauma system.

HJR 65, A JOINT RESOLUTION urging the University of Kentucky and the University of Louisville to complete an analysis of the scientific research findings regarding new drugs and new avenues for the potential therapeutic treatment of addiction to drugs and food.

WHEREAS, addiction to drugs and addiction to food are two major health care concerns that are confronting the citizens of the Commonwealth of Kentucky; and

WHEREAS, addiction to prescription and other drugs is a rampant problem in Kentucky, particularly in the eastern part of the state, and has led to dozens of deaths over the past few years; and

WHEREAS, of all states, Kentucky had the second-highest percentage of adults who were overweight, which is associated with numerous chronic diseases including diabetes, heart disease, stroke, and cancer; and

WHEREAS, Arvid Carlsson, Paul Greengard, and Eric Kandel received the Nobel Prizes in Physiology or Medicine for their pioneering discoveries concerning the signal transduction between nerve cells, called "slow synaptic transmission"; and

WHEREAS, these discoveries have been crucial to understanding the normal functioning of the brain and how disturbances in this signal can lead to neurological and psychiatric diseases, including addiction; and

WHEREAS, their discoveries have led to the development of new drugs for the treatment of schizophrenia, depression, Alzheimer's disease, and addiction to substances; and

WHEREAS, there is scientific evidence of a link between obesity and dopamine, a brain chemical associated with cocaine, alcohol, and other drug addictions; and

WHEREAS, researchers at the U.S. Department of Energy's Brookhaven National Laboratory reported that the mere sight and smell of food spike the level of dopamine in the brain; and

WHEREAS, this report has provided the foundation for additional research to understand the synaptic properties of neurons in brain areas relevant to drug and food addictions; and

WHEREAS, it is in the interest of the citizens of the Commonwealth of Kentucky for the state's research universities to explore the scientific literature to identify new treatment strategies for citizens suffering from obesity or drug addiction;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky General Assembly respectfully urges the University of Kentucky and the University of Louisville to analyze the scientific research literature to identify new drugs and therapies to treat obesity and drug addiction. The General Assembly further urges these universities to identify potential research questions that need to be investigated in order to understand the effect of chemicals on the brain areas relevant to the treatment of drug addiction and obesity and any relationship between obesity and the functioning of the endocrine system.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Joint Resolution to the president of the University of Kentucky, the president of the University of Louisville, the dean of the University of Kentucky College of Medicine, and the dean of the University of Louisville School of Medicine.

The Committee on Transportation reported **HB 172,** with Committee Substitutes attached thereto, with the expression of opinion that the same should pass. Reported to the Committee on Rules.

The Committee Substitute to **HB 172** is as follows:

HB 172, AN ACT relating to special license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section and in Sections 2, 3, 6, and 7 of this Act:

(a) "Special license plate" means a unique license plate issued under this chapter to a group or organization that readily identifies the operator of the motor vehicle bearing the plate as a member of a group or organization, or a supporter of the work, goals, or mission of a group or organization. The term shall not include regular license plates issued under KRS 186.240;

(b) "Street rod" means a modernized private passenger motor vehicle manufactured prior to the year 1949, or designed or manufactured to resemble a vehicle manufactured prior to 1949;

(c) "SF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by the Transportation Cabinet;

(d) "CF" means the portion of an initial or renewal fee to obtain a special license plate that is dedicated for use by a county clerk; and

(e) "EF" means the portion of an initial or renewal fee to obtain a special license plate that is mandated by this chapter to be dedicated for use by a particular group or organization.

(2) The initial purchase fee and renewal fee for a special license plate created under this chapter shall be as established in this subsection and includes the name of group or organization and the total initial and renewal fee required for the plate. The amount in parentheses indicates how the total fee is required to be divided:

(a) Disabled veterans who receive assistance to purchase a vehicle from the United States Veterans' Administration and recipients of the Congressional Medal of Honor:

1. Initial Fee: $0 ($0 SF/$0 CF/$0 EF).

2. Renewal Fee: $0 ($0 SF/$0 CF/$0 EF).

(b) Former prisoners of war, survivors of Pearl Harbor, and members of the Kentucky National Guard:

1. Initial Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

2. Renewal Fee: $3 ($0 SF/$3 CF/$0 EF).

(c) Recipients of the Purple Heart; members of the Civil Air Patrol; active, retired, veteran, reserve, or auxiliary members of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard; Merchant Marines who served between December 7, 1941, and August 15, 1945; and disabled veterans who have been declared to be at least seventy percent (70%) service-connected disabled by the United States Department of Veterans' Affairs, or who receive total service-connected disability rating for compensation on individual unemployability and have not received assistance from the United States Department of Veterans' Affairs toward the purchase of a motor vehicle:

1. Initial Fee: $20 ($12 SF/$3 CF/$5 EF to the veterans' program trust fund established under KRS 40.460).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(d) Recipients of the Distinguished Service Cross, Navy Cross, or Air Force Cross:

1. Initial Fee: $3 ($0 SF/$3 CF/$0 EF).

2. Renewal Fee: $3 ($0 SF/$3 CF/$0 EF).

(e) Disabled license plates:

1. Initial Fee: $15 ($12 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(f) Historic vehicles:

1. Initial Fee for two plates: $53 ($50 SF/$3 CF/$0 EF).

2. Renewal Fee: Do not renew annually.

(g) Members of Congress:

1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).

2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(h) Volunteer firefighters:

1. Initial Fee: $15 ($12 SF/$3 CF/$0 EF).
2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(i) Disaster and emergency services:
1. Initial Fee: $28 ($25 SF/$3 CF/$0 EF).
2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(j) Fraternal Order of Police:
1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).
2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(k) Law Enforcement Memorial:
1. Initial Fee: $75 ($62 SF/$3 CF/$10 EF to the Kentucky Law Enforcement Memorial Foundation, Inc.).
2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to the Kentucky Law Enforcement Memorial Foundation, Inc.).

(l) Personalized plates:
1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).
2. Renewal Fee: $40 ($37 SF/$3 CF/$0 EF).

(m) Street rods:
1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).
2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(n) Nature plates:
1. Initial Fee: $25 ($12 SF/$3 CF/$10 EF to Kentucky Heritage Land Conservation Fund established under KRS 146.570).
2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to Kentucky Heritage Land Conservation Fund established under KRS 146.570).

(o) Amateur radio:
1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).
2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(p) Kentucky General Assembly:
1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).
2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(q) Kentucky Court of Justice:
1. Initial Fee: $40 ($37 SF/$3 CF/$0 EF).
2. Renewal Fee: $3 ($0 SF/$3 CF/$0 EF).

(r) Masons:
1. Initial Fee: $28 ($25 SF/$3 CF/$0 EF).
2. Renewal Fee: $15 ($12 SF/$3 CF/$0 EF).

(s) Collegiate plates:
1. Initial Fee: $50 ($37 SF/$3 CF/$10 EF to the general scholarship fund of the university whose name will be bourne on the plate).
2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to the general scholarship fund of the university whose name will be bourne on the plate).

(t) Independent Colleges:
1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to the Association of Independent Kentucky Colleges and Universities for distribution to the general scholarship funds of the Association's members).
2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to the Association of Independent Kentucky Colleges and Universities for distribution to the general scholarship funds of the Association's members).

(u) Child Victims:
1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to the child victims' trust fund established under KRS 41.400).

2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the child victims' trust fund established under KRS 41.400).

(v) Kentucky Horse Council:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to the Kentucky Horse Council).

2. Renewal Fee: $20 ($12 SF/$3 CF/ $5 EF to the Kentucky Horse Council).

(w) Ducks Unlimited:

1. Initial Fee: $38 ($25 SF/$3 CF/$10 EF to Kentucky Ducks Unlimited).

2. Renewal Fee: $25 ($12 SF/$3 CF/$10 EF to Kentucky Ducks Unlimited).

(x) Spay neuter:

1. Initial Fee: $25 ($12 SF/$3 CF/$10 EF to the animal control and care fund established under KRS 258.119).

2. Renewal Fee: $20 ($12 SF/$3 CF/$5 EF to the animal control and care fund established under KRS 258.119).

(3) Any special license plate may be combined with a personalized license plate for a twenty-five dollar ($25) state fee in addition to all other fees for the particular special license plate established in this section and in subsection (3) of Section 2 of this Act. The twenty-five dollar ($25) fee required under this subsection shall be divided between the cabinet and the county clerk of the county where the applicant is applying for the license plate with the cabinet receiving twenty dollars ($20) and the county clerk receiving five dollars ($5).

SECTION 2. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) The SF portion of the fee required under Section 1 of this Act shall include the fee to reflectorize all license plates under KRS 186.240. All EF fees required under Section 1 of this Act shall be collected at the time of an initial or renewal application by the county clerk who shall forward the EF fee to the cabinet. The cabinet shall remit EF fees to the group or organization identified in Section 1 of this Act on an annual basis. The cabinet may retain any investment income earned from holding EF fees designated to be remitted under this subsection to offset administrative costs incurred by the cabinet in the administration of EF fees.

(2) A special license plate shall be the color and design selected by the group or organization identified in subsection (13) of this section, contingent upon the approval of the Transportation Cabinet. In addition to the design selected for a special license plate, the name "Kentucky," an annual renewal decal, and any combination of letters or numerals required by the cabinet in the design shall also appear on the plate.

(3) Except as provided in Section 1 of this Act, the total initial fee for a special license plate created under this chapter shall be twenty-eight dollars ($28), of which the Transportation Cabinet shall receive twenty-five dollars ($25) and the county clerk shall receive three dollars ($3), and the total renewal fee shall be fifteen dollars ($15), of which the Transportation Cabinet shall receive twelve dollars ($12) and the county clerk shall receive three dollars ($3). The twenty-five dollar ($25) initial fee and twelve dollar ($12) renewal fee received by the Transportation Cabinet under this subsection shall include an applicant's registration fee required under KRS 186.050.

(4) An actual metal special license plate shall be issued on the same schedule as regular license plates are issued under KRS 186.240. The cabinet shall have the discretion to extend the time period that will exist between the date a metal special license plate is issued and the date that regular plates are issued under KRS 186.240. A renewal registration decal shall be issued all other years during the owner's or lessee's birth month, except as provided in subsection (2) of Section 4 of this Act, subsection (5) of Section 5 of this Act, and subsection (2) of Section 7 of this Act. A person seeking a special license plate for a vehicle provided as part of the person's occupation shall conform to the requirements of KRS 186.050(14).

(5) All special license plates issued under this chapter shall be replaced free of charge if the metal plate is destroyed in an accident, deteriorates to a point that the lettering, numbering, or images on the face of the plate are not legible, or the plate is stolen, if the owner or lessee has not transferred the vehicle to which the plate was issued during the current licensing period.

(6) Upon the sale, transfer, or termination of a lease of a vehicle with any special license plate issued under this chapter, the owner or lessee shall remove the special plate and return it and the certificate of registration to the county clerk. The county clerk shall reissue the owner or lessee a regular license plate and a certificate of registration upon payment of a three dollar ($3) county clerk fee. If the owner or lessee requests, the county clerk shall reissue the special plate free of charge for use on any other vehicle of the same classification and category owned by the person during the current licensing period. If the owner or lessee has the special plate reissued to another vehicle, the regular license plate that is being replaced shall be returned to the county clerk who shall forward the plate to the Transportation Cabinet.

(7) A special license plate may be issued to the owner or lessee of a motor vehicle that is required to be registered under KRS 186.050(1), (3)(a), or (4)(a) except a special license plate shall not be issued to a taxicab, airport limousine, or U-Drive-It registered and licensed under this chapter or KRS Chapter 281. A person applying for a special license plate shall apply in the office of the county clerk in the county of the person's residence, except as provided in subsection (3)

of Section 4 of this Act. All special license plates issued under this chapter may be combined with a personalized license plate under the provisions of KRS 186.174. The fee to combine a special license plate with a personalized license plate shall be as established in subsection (3) of Section 1 of this Act.

(8) Within thirty (30) days of termination from election to, appointment to, or membership with any group or organization, an applicant to whom a special license plate was issued under this chapter shall return the special license plate to the county clerk of the county of his or her residence, unless the person is merely changing his or her status with the group or organization to retired.

(9) A group wanting to create a special license plate that is not authorized under this chapter on the effective date of this Act shall comply with the following conditions before being eligible to apply for a special license plate:

(a) The group shall be nonprofit and based, headquartered, or have a chapter in Kentucky;

(b) The group may be organized for, but shall not be restricted to, social, civic, or entertainment purposes;

(c) The group, or the group's lettering, logo, image, or message to be placed on the license plate, if created, shall not discriminate against any race, color, religion, sex, or national origin, and shall not be construed, as determined by the cabinet, as an attempt to victimize or intimidate any person due to the person's race, color, religion, sex, or national origin;

(d) The group shall not be a political party and shall not have been created primarily to promote a specific political belief;

(e) The group shall not have as its primary purpose the promotion of any specific faith, religion, or antireligion;

(f) The name of the group shall not be the name of a special product or brand name, and shall not be construed, as determined by the cabinet, as promoting a product or brand name; and

(g) The group's lettering, logo, image, or message to be placed on the license plate, if created, shall not be obscene, as determined by the cabinet.

(10) If the cabinet denies to issue a group a special license plate based upon the conditions specified in subsection (9) of this section, the group may appeal the denial to the next regularly scheduled session of the General Assembly for review of the denial and action on the group's request for a special license plate. The cabinet shall, immediately upon denying to issue a group a special license plate, notify in writing the chairperson of both the House and Senate Transportation Committees of the General Assembly of the denial and the reasons upon which the cabinet based the denial. The House and Senate chairpersons shall be required to present the information to his or her respective committee for consideration within the first ten (10) days of the next regularly scheduled session of the General Assembly, if requested to do so in writing by the group who was denied a special license plate. A person seeking a personalized license plate under Section 7 of this Act shall be subject to the conditions specified in paragraphs (c) through (g) of subsection (9) of this section, and shall be able to appeal a denial by the cabinet under the provisions of this subsection.

(11) If the cabinet approves a request for a special license plate, the cabinet shall begin designing and printing the plate after the group collects a minimum of nine hundred (900) applications with each application being accompanied by a twenty-five dollar ($25) state fee. The applications and accompanying fee shall be submitted to the cabinet at one (1) time as a whole and shall not be submitted individually or intermittently.

(12) An initial applicant for, or an applicant renewing, his or her registration for a special license plate may, at the time of application, make a voluntary contribution that the county clerk shall forward to the cabinet. The cabinet shall, on an annual basis, remit the voluntary contributions to the appropriate group identified to be used for the declared purpose stated under subsection (13) of this section. The cabinet may retain any investment income earned from holding voluntary contributions designated to be remitted under this subsection to offset administrative costs incurred by the cabinet in the administration of the contributions. Any group or organization that receives a mandatory EF fee under Section 1 of this Act shall submit the information required under subsection (13)(a) and (c) of this section to the Transportation Cabinet within thirty (30) days of the effective date of this Act.

(13) If a group wants to receive a donation when the group or organization's special license plate is initially purchased or renewed under subsection (12) of this section, the group shall, at the time the nine hundred (900) applications are submitted to the Transportation Cabinet, also submit a notarized affidavit to the cabinet attesting to:

(a) The name, address, and telephone number for the group or organization. If the group or organization does not have its headquarters in the Commonwealth, the name, address, and telephone number for the group or organization's Kentucky state chapter shall be required. The names of the officers of the group or organization shall also be required. If the entity receiving funds under subsection (12) of this section is not a state government agency, a program unit within a state government agency, or is a group or organization that does not have a statewide chapter, an extra donation for use by the group or organization shall be prohibited;

(b) The amount of the monetary donation the group wants to receive when a person purchases the group or organization's special license plate; and

(c) The purpose for which the donated funds will be used by the group or organization. Donated funds shall not be limited for use by members of the group or organization, and shall not be used for administrative or personnel costs of the group or organization.

(14) All funds received by a group or organization under subsection (12) of this section shall be deposited into an account separate from all other accounts the group or organization may have and the account shall be audited yearly at the expense of the group or organization. The completed audit shall be forwarded to the Transportation Cabinet in Frankfort. One hundred percent (100%) of the funds received by a group or organization under subsection (12) of this section shall be used for the express purpose identified by the group in subsection (13) of this section. Any group or organization that receives a mandatory EF fee under Section 1 of this Act shall comply with the provisions of this subsection.

(15) The secretary of the Transportation Cabinet shall promulgate administrative regulations under KRS Chapter 13A to establish additional rules to implement the issuance of special license plates issued under this chapter, including but not limited to:

(a) Documentation that will be required to accompany an application for a special license plate to provide proof of election to the United States Congress or the Kentucky General Assembly; election or appointment to the Kentucky Court of Justice; membership in a Masonic Order, Fraternal Order of Police, or disaster and emergency services organization; or ownership of an amateur radio operator license; and

(b) The time schedule permissible for a group or organization to request a design change for the special license plate.

(16) Any individual, group, or organization that fails to audit any funds received under this chapter, or that intentionally uses any funds received in any way other than attested to under subsection (13) of this section or for administrative or personnel costs in violation of subsection (13) of this section, shall be guilty of a Class D felony and upon conviction shall, in addition to being subject to criminal penalties, be assessed a mandatory five thousand dollar ($5,000) fine.

SECTION 3. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) The Transportation Cabinet shall, unless directed otherwise by the General Assembly, perpetually produce the following special license plates: military license plates, U.S. Congressional license plates, volunteer firefighter license plates, disaster and emergency services license plates, Fraternal Order of Police license plates, Law Enforcement Memorial license plates, street rod license plates, nature license plates, amateur radio license plates, Kentucky General Assembly license plates, Kentucky Court of Justice license plates, Masonic Order license plates, collegiate license plates, independent college and university license plates, child victims' trust fund license plates, Kentucky Horse Council license plates, Ducks Unlimited license plates, and spay neuter license plates.

(2) The design of the plates identified for perpetual production under this section may be revised upon request of a group or organization requesting a design revision under the provisions of subsection (15) of Section 2 of this Act.

Section 4. KRS 186.041 is amended to read as follows:

(1) ~~[The provisions of this section shall govern the issuance of all special military-related license plates. Except as provided in subsection (9) of this section, a person who wants to purchase a special military-related license plate shall apply to the county clerk in the county where the person lives on a form prescribed by the Transportation Cabinet.]~~Each initial and renewal application *for a special military license plate* shall be accompanied by proof that the person is associated with the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Coast Guard, United States Coast Guard Auxiliary, Kentucky National Guard, Merchant Marines with service between December 7, 1941, and August 15, 1945, or Civil Air Patrol in one (1) of the following ways:

(a) An active component member;

(b) A retired member; or

(c) A veteran who received a discharge under honorable conditions, or the veteran's widow and:

1. Performed twenty-four (24) months of active-duty service;
2. Received an early release due to injuries or other medical condition, or at the convenience of the service;
3. Received a hardship discharge;
4. Was separated or retired due to a disability; or
5. Was determined to have a service-connected disability incurred during the enlistment.

(2) ~~[Initial registration and renewal registration fees for special military-related license plates shall be charged as provided in this subsection and KRS 186.174:~~

~~(a) Disabled veterans and recipients of the Congressional Medal of Honor licensed under subsection (5) of this section shall not be charged an initial registration fee and shall not be charged a renewal registration fee. The license plate and certificate of registration shall be issued free of charge.~~

~~(b) The initial registration fee shall be a seventeen dollar ($17) state fee that shall be divided under the provisions of subsection (3) of this section and that includes the cost to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee, and the renewal registration fee shall be a three dollar ($3) county clerk fee for:~~

~~1. Former prisoners of war licensed under subsection (11) of this section;~~

~~2. Survivors of Pearl Harbor licensed under subsection (12) of this section; and~~

~~3. Members of the National Guard licensed under subsection (13) of this section.~~

~~(c) The initial registration fee shall be a seventeen dollar ($17) state fee that shall be divided under the provisions of subsection (3) of this section, and the renewal registration fee shall be a twelve dollar ($12) state fee that includes the cost to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee for:~~

~~1. Disabled veterans licensed under subsection (6) of this section;~~

~~2. Purple Heart recipients licensed under subsection (10) of this section, except that if a Purple Heart recipient also qualifies as a disabled veteran under subsection (5) of this section, the Purple Heart recipient may receive either a Purple Heart or a disabled veteran's license plate, both initial and renewal, and the certificate of registration free of charge;~~

~~3. Members of the Civil Air Patrol licensed under subsection (14) of this section; and~~

~~4. Other active, retired, veteran, reserve, or auxiliary members of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or Merchant Marines licensed under subsection (15) of this section.~~

~~(d) Recipients of the Distinguished Service Cross, Navy Cross, or Air Force Cross licensed under subsection (9) of this section shall be charged an initial registration fee and a renewal registration fee of three dollars ($3.00) that shall be retained by the county clerk. A recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross licensed under subsection (9) of this section shall not be charged a state fee when initially receiving the plate or upon annual renewal of the plate.~~

~~(e) The initial and renewal registration fee for a military license plate that has been combined with a personalized license plate under the provisions of this section shall be as provided under KRS 186.174.~~

~~(3) The initial state fee collected under subsections (2)(b) and (2)(c) of this section shall be divided between the Transportation Cabinet and the Department of Veterans' Affairs. The Transportation Cabinet shall receive twelve dollars ($12) of the initial state fee and the Department of Veterans' Affairs shall receive five dollars ($5) of the initial state fee. The county clerk shall forward money collected under subsections (2)(b) and (2)(c) of this section to the Transportation Cabinet who shall forward the money to the Department of Veterans' Affairs on a quarterly basis and the department shall deposit the money into the veterans' program trust fund established by KRS 40.460(2)(b). A person renewing a special military license plate issued under this section may donate five dollars ($5) to support the veteran's program trust fund. Money donated under this subsection shall be paid to the county clerk who shall forward the money to the Transportation Cabinet who shall forward the money on a quarterly basis to the Department of Veterans' Affairs and the department shall deposit the money into the veteran's program trust fund established by KRS 40.460(2)(b).~~

~~(4) A special military-related license plate may be issued for use on a passenger car registered under KRS 186.050(1) or for a commercial vehicle registered under KRS 186.050(3)(a) that has a gross laden weight of six thousand (6,000) pounds or less. Except as provided in subsection (7) of this section and KRS 186.174, a license plate issued under this section shall have the renewal registration decal issued annually during the applicant's birth month and shall be a five (5) year license plate.]~~The member, retired member, veteran, or reservist may purchase two (2) special military-related license plates annually for vehicles they own or lease. ***A disabled veterans license plate shall expire on July 31.***~~[A license plate issued under this section may be combined with a personalized license plate under the provisions of KRS 186.174.~~

~~(5) A recipient of the Congressional Medal of Honor, a recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross, or a disabled veteran who has been or shall be given financial assistance toward the purchase or lease of a motor vehicle by the United States Department of Veterans Affairs under the provisions of 38 U.S.C. sec. 1901, or any other public law that may be passed by the Congress of the United States shall initially and annually be issued a certificate of registration and a special military-related license plate free of charge.~~

~~(6) A veteran who has been declared to be at least seventy percent (70%) service-connected disabled by the United States Department of Veterans Affairs, or who is receiving total service-connected disability rating for compensation on individual unemployability, and who has not received financial assistance from the United States Department of Veterans Affairs toward the purchase or lease of a motor vehicle shall be eligible for a disabled veterans license plate upon payment of the initial registration fee required in subsection (2)(c) of this section.~~

~~(7) A disabled veterans license plate shall be printed in red, white, and blue colors. Half of the license plate shall be in one (1) color, the other half a second color, and the figures and lettering in the third color. Each plate shall contain the international symbol of access adopted by Rehabilitation International in 1969, the name of the state, the year, the registration number, and the words "Disabled Vet." A disabled veterans license plate shall have the renewal registration decal issued annually on July 31.~~

~~(8) A recipient of the Congressional Medal of Honor shall be eligible for a Congressional Medal of Honor license plate that shall be printed in blue and white colors and shall follow the color scheme for all figures and letters as prescribed for passenger cars. Each plate shall contain the name or an abbreviation of the state and the words "Medal of Honor" and a number uniquely identifying each recipient, in lieu of registration numbers.]~~

(3)~~[(9)]~~ A recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross shall be eligible for a Service Cross license plate upon submission of an application to the Kentucky Department of Veterans' Affairs. The recipient shall be required to include with the initial application for a Service Cross license plate a copy of the general order that authorized the award and the recipient's Department of Defense form number 214. The Department of Veterans' Affairs shall verify the documentation submitted with the application for a Service Cross license plate, and if the individual applying for the plate is confirmed to be a recipient of the Distinguished Service Cross, Navy Cross, or Air Force Cross, the Department of Veterans' Affairs shall submit the applicant's name to the Transportation Cabinet's Division of Motor Vehicle Licensing not later than September 1 preceding the year that the Service Cross license plate is to be initially issued or renewed. When the Service Cross license plate is ready, the plate shall be sent to the county clerk in the county of the applicant's residence. The Transportation Cabinet's Division of Motor Vehicle Licensing shall inform each applicant in writing that the Service Cross license plate is ready and may be picked up at the county clerk's office.[~~Each Service Cross license plate shall contain the name or an abbreviation for the state and an alphabetic or numeric designation uniquely identifying each recipient of a Service Cross license plate in lieu of registration numbers. The Transportation Cabinet shall have the authority to select three (3) designs and the appropriate color scheme for each design of the Service Cross license plate. In addition to the requirements of this subsection, the Transportation Cabinet shall have the authority to include other information on the Service Cross license plate.~~] The Transportation Cabinet shall prescribe the type of application form required by this subsection and shall supply the Department of Veterans' Affairs with the application form required by this subsection.

(4)[~~(10) A recipient of a Purple Heart medal shall be eligible for a Purple Heart license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. A Purple Heart license plate shall bear the name "Purple Heart," a registration number, and an appropriate logo to be determined by the Transportation Cabinet.~~

~~(11)~~] A person who is a former prisoner of the enemy during World War I, World War II, the Korean War, or the Vietnam War, or the spouse of a deceased former prisoner of war, shall be eligible for a former prisoner of war license plate[~~upon payment of the initial registration fee required in subsection (2)(b) of this section. The application shall be accompanied~~] by ***submitting*** written proof from the United States Department of Veterans Affairs or other appropriate federal agency stating the period of time the person or person's spouse was a prisoner of war.[~~A former prisoner of war license plate shall be printed in red, white, and blue colors. Each plate shall contain the name of the state, the year, the registration number, and the words "Former P.O.W."~~] If a former prisoner of war dies with a vehicle licensed as authorized under this section, the person's surviving spouse may retain the license plate for use on the same vehicle or on another vehicle that complies with the provisions of subsection ***(7) of Section 2 of this Act***[~~(4) of this section~~].

(5)[~~(12)~~] A person who is certified by the Kentucky chapter of the Pearl Harbor Survivors Association as being a survivor of the attack on Pearl Harbor shall be eligible for a Pearl Harbor license plate ***and***[~~upon payment of the initial registration fee required in subsection (2)(b) of this section. The Transportation Cabinet shall issue an applicant an appropriately designed plate identifying the vehicle as registered to a Pearl Harbor survivor. The person~~] shall be required to attach to the special military-related license plate application written evidence from the Kentucky chapter of the Pearl Harbor Survivors Association that the person:

(a) Was a member of the United States Armed Forces on December 7, 1941;

(b) Was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m., Hawaii time, at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three (3) miles;

(c) Was discharged honorably from the United States Armed Forces; and

(d) Is certified by the Kentucky chapter of the Pearl Harbor Survivors Association.

[~~(13) A person who is a member of the Kentucky National Guard, or a retired member, shall be eligible for a National Guard license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. A National Guard license plate shall bear the name "Kentucky National Guard," a registration number, and the logo of the National Guard. Upon termination of membership in the Kentucky National Guard, except for those who remain eligible through retirement, a person shall comply with the provisions of subsection (16) of this section.~~

~~(14) A person who is a member of the Civil Air Patrol shall be eligible for a Civil Air Patrol license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. A Civil Air Patrol license plate shall bear the name "Civil Air Patrol," a registration number, and an appropriate logo to be determined by the Transportation Cabinet. Upon termination of membership in the Civil Air Patrol, a person shall comply with the provisions of subsection (16) of this section.~~

~~(15) (a) A person who meets the requirements of subsection (1) of this section shall be eligible for a military license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. The plate shall bear:~~

~~1. A seal indicating Army, Navy, Air Force, Marine Corps, or Coast Guard, or, in the case of the Merchant Marines, a seal indicating the branch of service issuing a discharge;~~

~~2. A decal indicating whether the person's status is active duty, reserve duty, veteran, retired veteran, or widow; and, if applicable, a decal for auxiliary in the case of the Coast Guard or a decal for the Merchant Marines;~~

~~3. A veteran's decal may further indicate a veteran's service in a wartime era; and~~

~~4. A registration number.~~

~~(b) Upon termination of membership in the active component or reserves of the United States Armed Forces or the~~

~~United States Coast Guard, a person shall comply with the provisions of subsection (16) of this section.~~

~~(c) The Transportation Cabinet, in coordination with the Department of Veterans' Affairs, shall promulgate an administrative regulation under KRS Chapter 13A defining criteria for the issuance of specific decals for veterans' wartime service.~~

~~(16) Except for persons changing their status to retired, within thirty (30) days of termination of membership or reserve status in a group eligible for a special military-related license plate, a person issued a military plate under this section or a combined personalized/special military license plate issued under KRS 186.174, shall return the plate to the county clerk of the county of his residence. Upon payment of a three dollar ($3) county clerk fee, the county clerk shall issue the person a regular license plate to replace the plate being surrendered.~~

~~(17) Upon the sale, transfer, or termination of a lease of a motor vehicle for which a special military-related license plate has been issued, the owner shall return the military plate and the certificate of registration to the county clerk. The county clerk shall issue a regular license plate and certificate of registration upon payment of a twelve dollar ($12) state fee which includes the fifty cent ($0.50) fee to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee. The twelve dollar ($12) state fee shall be forwarded to the Transportation Cabinet. Upon request and payment of a three dollar ($3) fee, the county clerk shall reissue the special military-related license plate for use on any other vehicle owned by the same person who purchased the special plate for the current licensing period.~~

~~(18) The cabinet shall promulgate administrative regulations to set forth the documentation required in order to establish a person's qualifications to receive any license plate issued under this section.~~

~~(19) A person seeking a special military-related license plate for a vehicle provided to that person pursuant to an occupation shall conform to the requirements of KRS 186.050(14).~~

~~(20) If a special military related license plate is lost, stolen, mutilated, or deteriorates to the point where the inscriptions or decals are not discernible, the person to whom the plate was issued may obtain a replacement plate free of charge.~~]

Section 5. KRS 186.042 is amended to read as follows:

(1) For the purposes of this section, "persons with disabilities which limit or impair the ability to walk" means persons who, as determined by a licensed physician:

(a) Cannot walk two hundred (200) feet or sixty-one (61) meters without stopping to rest;

(b) Cannot walk without the use of, or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair, or other assistant device;

(c) Are restricted by lung disease to the extent that the person's forced respiratory and expiratory volume for one (1) second, when measured by spirometry, is less than one (1) liter, or the arterial oxygen tension is less than sixty (60) mm/hg on room air at rest;

(d) Use portable oxygen;

(e) Have a cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association; or

(f) Are severely limited in their ability to walk due to an arthritic, neurological, or orthopedic condition.

(2) On the application of any person with disabilities which limit or impair the ability to walk, who has lost the use of an arm or both arms, or who is blind, the Transportation Cabinet shall issue the person with a disability an accessible parking registration plate or renewal decal designating the vehicle licensed as being owned by or leased by a person with a disability. The license plate or renewal decal may be issued for a passenger car as set forth in KRS 186.050(1), for a motorcycle as set forth in KRS 186.050(2), or for a commercial vehicle as set forth in KRS 186.050(3)(a). The registration plates issued shall bear the international symbol of access adopted by Rehabilitation International in 1969, reading from left to right and shall be followed by numbers or letters the cabinet finds expedient. The cabinet shall not issue the registration plates so designated to any person other than a person with a disability as described above. The ***fee for a disabled license plate shall be as established in Section 1 of this Act***[~~cabinet shall not charge any fee, other than the regular fee for annual registration, for the issuance of the registration plate or renewal decal~~].

(3) The application for a license plate for a person with a disability shall be made on a form prepared by the Transportation Cabinet. For every person seeking this accessible parking license plate, proof of the disability shall be required by:

(a) The county clerk issuing the license plate ascertaining that the applicant is obviously disabled as described in this section; or

(b) A statement from a licensed physician that the applicant is a person with disabilities which limit or impair the ability to walk, a person who has lost the use of an arm, or any person who is blind.

(4)[~~Upon the sale, transfer, or termination of lease of a vehicle licensed as authorized under this section, the owner or lessee shall remove the license plate and return it and the certificate of registration to the county clerk. The clerk shall issue a regular license plate and certificate of registration upon the payment of an eleven dollar fifty cent ($11.50) state fee and a three dollar ($3) clerk's fee. When the accessible parking plate has been presented to the clerk, he shall reissue the plate, free of charge by the Transportation Cabinet and upon payment of a two dollar ($2) clerk's fee, for use on any other vehicle owned or leased by the same person who purchased the accessible parking plate for the current licensing period. The~~

~~license plate and decal on this other vehicle shall be turned in to the county clerk, who shall forward the license plate to Frankfort.~~

~~(5)~~] When a motor vehicle bearing plates issued to a person with a disability as prescribed in this section is being operated by or for the benefit of the person with a disability, who is in the motor vehicle when the motor vehicle is being operated, the motor vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities, except if local ordinances or police regulations prohibit parking on a highway for the purpose of creating a fire lane; if the ordinances or police regulations provide for the accommodation of heavy traffic during morning, afternoon, or evening hours; or if the motor vehicle is parked in such a manner as to clearly be a traffic hazard.

(5)[~~(6) Any person with a disability seeking to obtain a license plate according to this section who has been provided an automobile pursuant to an occupation shall conform to the requirements of KRS 186.050(14).~~

~~(7)~~] Registration under this section shall expire July 31.

[~~(8) The cabinet may promulgate the administrative regulations necessary to further the purpose of this section.~~]

Section 6. KRS 186.043 is amended to read as follows:

(1) In enacting this section, it is the intention of the General Assembly to recognize the special value of historic vehicles to the Commonwealth, and also to recognize that historic vehicles, because of their limited use and easily identifiable characteristics, do not require the same degree of regulation as other vehicles.

(2) As used in this section, unless the context otherwise requires, "historic vehicle" shall mean all motor vehicles twenty-five (25) years old or older, which are used primarily for exhibition in shows, parades, tours, and other special uses, but not for general transportation.

(3) Historic vehicles shall be registered and licensed by the Transportation Cabinet. The registration shall be in lieu of registration and license required by KRS 186.020 to 186.270.

(4) Upon payment of *the fee established in Section 1 of this Act*[~~a fee of fifty dollars ($50)~~] and an application in accordance with regulations issued by the Transportation Cabinet, the secretary of the Transportation Cabinet shall issue a certificate of registration and two (2) special license plates of a different color and design than the regular license plate, which, in the judgment of the secretary of the Transportation Cabinet, will best advertise, popularize, and promote the Commonwealth of Kentucky. These plates, besides the word "Kentucky" shall have the words, "Historic Motor Vehicle" inscribed in a conspicuous manner and carry no year date. These plates shall have a serial number beginning with the number "100" and continue in a consecutive numerical sequence.

(5) Historic vehicles may display an authentic Kentucky license plate, twenty-five (25) years or older, or a reproduction of such a plate, if the historic motor vehicle plate and the registration receipt are kept in the vehicle at all times.

(6) The registration license and license plates of historic motor vehicles shall be valid without renewal as long as the vehicle is in existence. If the historic motor vehicle is sold, the registration and license shall be assigned and transferred to the new owner on the records of the Transportation Cabinet upon receipt of an application in accordance with regulations issued by the cabinet and payment of a fee of three dollars ($3).

[~~(7) The secretary of the cabinet may promulgate administrative regulations he deems necessary to further the purpose of this section.~~]

Section 7. KRS 186.174 is amended to read as follows:

(1) For purposes of this section, "personalized license plate" means a license plate issued with personal letters or numbers significant to the applicant and it also means a license plate that *is issued under this section and has been combined with a special license plate*[~~combines personal letters or numbers significant to the applicant with a special military-related license plate issued under KRS 186.041~~].

(2) [~~Except as provided in this subsection,~~]Any owner or lessee of a motor vehicle that is required to be registered under the provisions of KRS 186.050(1)*,*[~~ or~~] (3)(a), *or (4)(a)*[~~except taxicabs, airport limousines, and rental motor vehicles~~], or any owner *or lessee* of a motorcycle required to be registered under the provisions of KRS 186.050(2) may[~~, in addition to registration under KRS 186.050(1) or (3)(a),~~] obtain a personalized license plate by applying for a personalized license plate in the office of the county clerk and upon payment of *the fee required in Section 1 of this Act*[~~a twenty-five dollar ($25) fee~~]. A person *initially* applying for a personalized license plate shall submit the[~~ initial~~] application and *appropriate SF fee*[~~twenty-five dollar ($25) fee for a personalized license plate~~] in person to the county clerk, but may submit the annual application to renew the personalized license plate *and entire fee required in Section 1 of this Act*[~~with the twenty-five ($25) fee~~] by mail to the county clerk. Applications and fees for personalized license plates pursuant to this section must be received by the Transportation Cabinet on or before September 1 preceding the year that the plate or renewal is to be issued. A personalized license plate shall be replaced annually unless the applicant chooses to receive a renewal registration decal. A county clerk shall immediately forward the application and the *fee required in Section 1 of this Act*[~~twenty-five dollar ($25) fee~~] for a personalized license plate to the Transportation Cabinet. Personalized plates issued under this section expire December 31 each year. The initial fee for a personalized license plate that has been combined with *special license plate shall be as established in subsection (3) of Section 1 of this Act*[~~a military license plate under KRS 186.041 shall be thirty dollars ($30). The thirty dollar ($30) fee shall be divided between the Transportation Cabinet, which shall receive twenty-five dollars ($25), and the Department of Veterans' Affairs, which shall receive five dollars~~

~~($5). The county clerk shall forward the money collected under this subsection for a personalized license plate that has been combined with a military license plate to the Transportation Cabinet who shall forward on a quarterly basis the money to the Department of Veterans' Affairs, which shall deposit the money into the veterans' program trust fund established by KRS 40.460(2)(b). A person renewing a combination personalized/special military license plate under this section may donate five dollars ($5) to support the veterans' program trust fund. Money donated to the fund shall be forwarded by the county clerk to the Transportation Cabinet who shall forward the money on a quarterly basis to the Department of Veterans' Affairs, which shall deposit the money into the veterans' program trust fund established by KRS 40.460(2)(b)~~].

(3) A personalized plate shall not be issued that would conflict with or duplicate the alphabetical-numerical system used for regular license plates or any other license plates issued in the Commonwealth, and shall not contain a combination of more than six (6) letters of the alphabet and Arabic numerals, including spaces. A personalized plate shall not be issued if ***the cabinet determines the request fails to comply with the conditions specified in paragraphs (c) through (g) of subsection (9) of Section 2 of this Act. A person who is denied a personalized license plate may appeal the denial under the provisions established in subsection (10) of Section 2 of this Act***[~~, in the discretion of the cabinet, it carries a letter or number combinations that carry connotations offensive to good taste and decency~~]. The owner or lessee shall submit an application and ***fee***[~~twenty-five dollar ($25) fee annually~~] to renew a personalized license plate pursuant to the provisions of subsection (2) of this section. Once an applicant obtains a personalized plate, he ***or she*** will have first priority on that plate for each of the following years that he ***or she*** makes timely and proper application.

[~~(4) When registering a vehicle required to be registered under KRS 186.050(1) or (3)(a), the cabinet shall send the personalized plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk of the county of residence shall issue the personalized license plate and receive fourteen dollars fifty cents ($14.50), of which three dollars ($3) shall constitute the clerk's fee and eleven dollars fifty cents ($11.50) shall constitute the cabinet's fee.~~

~~(5) When registering a motorcycle, the cabinet shall send the personalized plate to the county clerk in the county in which the applicant would be required to register his motorcycle. The clerk shall issue the personalized plate and receive three dollars ($3) and three dollars ($3) for each sidecar attachment.~~

~~(6) (a) Upon the sale, transfer, or termination of lease of the motor vehicle bearing the personalized plate, the owner or lessee shall remove it and return it and the certificate of registration to the county clerk. The clerk shall issue a regular license plate and certificate of registration upon payment of an eleven dollar fifty cent ($11.50) state fee and a three dollar ($3) clerk's fee. The vehicle may then be transferred as provided by KRS Chapter 186.~~

~~(b) When the personalized plate has been presented to the clerk, he shall reissue it free of charge by the Transportation Cabinet and upon payment of a two dollar ($2) clerk's fee, for use on any other vehicle of the same classification and category owned or leased by the same person purchasing the personalized plate for the current license period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.~~

~~(7) Any applicant seeking a license plate according to this section for a vehicle provided to him pursuant to an occupation shall conform to the requirements set forth in KRS 186.050(14).~~

~~(8) If a personalized plate deteriorates, if he has not transferred a vehicle during the current license period, the applicant may obtain a regular plate free.~~

~~(9) The secretary of the Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A necessary to further the purposes of this section.~~]

Section 8. KRS 41.400 is amended to read as follows:

(1) The child victims' trust fund is created as a separate fund in the office of the State Treasurer. The fund shall be expended only as provided in this section.

(2) The State Treasurer shall credit to the trust fund all amounts received for this purpose and any amounts received under KRS 141.440.

(3) The State Treasurer shall invest trust fund money in the same manner as surplus funds are invested. Earnings shall be credited to the trust fund.

(4) Until the total amount of assets in the trust fund exceeds twenty million dollars ($20,000,000), not more than one-half of the money contributed to the trust fund each year, plus the earnings credited to the trust fund during the previous fiscal year, and the money earned by the sale of child victims' trust fund license plates pursuant to KRS ***Chapter 186***[~~186.1867~~], shall be available for disbursement upon the authorization of the state board as provided in KRS 15.935. After such time that the State Treasurer certifies that the assets in the trust fund exceed twenty million dollars ($20,000,000), only the earnings credited to the trust fund shall be available for disbursement upon the authorization of the state board as provided in KRS 15.935.

(5) Funds granted or funds received as gifts or donations to the child victims' trust fund shall be available for disbursement upon appropriation by the General Assembly, and funds authorized for expenditure shall not be considered assets for purposes of subsection (4) of this section.

Section 9. KRS 186.065 is amended to read as follows:

(1) Every state-owned motor vehicle, except as provided in subsection (2), shall have an official license plate. Except as provided in subsections (2), (3), and (4) on one (1) door on each side of every state-owned vehicle shall be the great seal of the Commonwealth and the words "For Official Use Only."

(2) The Cabinets of Revenue, Transportation, Justice***, Public Protection and Regulation,*** and the Attorney General may authorize registration under KRS 186.020 and be issued regular license plates for vehicles used for investigatory purposes. The Administrative Office of the Courts may authorize registration under KRS 186.020 and be issued regular license plates for vehicles used by justices and judges of the Supreme Court and Court of Appeals.

(3) The Governor and the Lieutenant Governor may each use one (1) state-owned motor vehicle on which it shall not be necessary to have the state seal or the words "For Official Use Only."

(4) The Justices and Judges of the Supreme Court and Court of Appeals may each use state-owned motor vehicles on which it shall not be necessary to have the state seal or the words "For Official Use Only."

Section 10. The following KRS sections are repealed:

186.171 Special license plates for members of Congress.
186.1721 Special license plate for disaster and emergency services staff members.
186.1723 Special license plate for member of Fraternal Order of Police.
186.1724 Special license plates for law enforcement memorial.
186.1751 Special license plate for "Street Rod" vehicle.
186.1761 Nature license plates.
186.177 Special license plates bearing amateur radio call letters.
186.178 Special license plates for General Assembly members.
186.179 Special license plates for Justices or Judges of the Court of Justice.
186.1831 Special license plates for members of a Masonic order.
186.1835 Special license plates for members of the Knights of Columbus.
186.184 Special PTA license plate -- PTA program fund.
186.185 Collegiate license plate.
186.186 Application for special license plates pursuant to KRS 186.186 to 186.1867 -- Vehicles leased or provided pursuant to an occupation -- Renewal, fees, administrative regulations.
186.18651 Special license plates for independent college or university.
186.1867 Special license plates for child victims' trust fund.
186.1868 Special Kentucky Horse Council license plate.
186.18685 Special license plates for Ducks Unlimited.
186.187 Special spay neuter license plate.
186.188 Special Louisville Zoo license plate.
186.189 Special license plates for special groups or special purposes.

The Committee on Transportation reported **HB 304**, with Committee Substitute attached thereto, **HB 447**, with Committee Substitute attached thereto, **HB 459**, **HB 495**, with Committee Substitute and Committee Amendment attached thereto, and **SB 160** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 304, AN ACT relating to drivers' licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 159.051 is amended to read as follows:

(1) When a student age sixteen (16) or seventeen (17) drops out of school or is declared to be academically deficient, the school administrator or his designee shall notify the superintendent of schools of the district in which the student is a resident or is enrolled. The reports shall be made at the end of each semester but may be made earlier in the semester for accumulated absences. A student shall be deemed to have dropped out of school when he has nine (9) or more unexcused absences in the preceding semester. Any absences due to suspension shall be unexcused absences. A student shall be deemed to be academically deficient when he has not received passing grades in at least four (4) courses, or the equivalent of four (4) courses, in the preceding semester. The local school board shall adopt a policy to reflect a similar standard for academic deficiency for students in alternative, special education, or part-time programs.

(2). Within ten (10) days after receiving the notification, the superintendent shall report the student's name and Social Security number to the Transportation Cabinet. As soon as possible thereafter, the cabinet shall notify the student that his operator's license, permit, or privilege to operate a motor vehicle has been revoked or denied and shall inform the student of his right to a hearing before the District Court of appropriate venue to show cause as to the reasons his driver's license should be reinstated. Within fifteen (15) days after this notice is sent, the custodial parent, legal guardian, or next friend of the student may request an ex parte hearing before the District Court. The student shall not be charged District Court filing fees. The notification shall inform the student that he is not required to have legal counsel.[~~ Revocation under this subsection shall not be permitted unless the local school district shall operate an alternative education program approved by the Department of Education designed to meet the learning needs of students who are unable to succeed in the regular program.~~]

(3) In order for the student to have his license reinstated, the court shall be satisfied that the license is needed to meet family obligations or family economic considerations which if unsatisfied would create an undue hardship or that the student is the only licensed driver in the household or the student is not considered a dropout or academically deficient pursuant to this section. If the student satisfies the court, the court shall notify the cabinet to reinstate the student's license at no cost. The student, if aggrieved by a decision of the court issued pursuant to this section, may appeal the decision within thirty (30) days to the Circuit Court of appropriate venue. A student who is being schooled at home shall be considered to be enrolled in school.

(4) A student who has had his license revoked under the provisions of this section may reapply for his driver's license as early as the end of the semester during which he enrolls in school and successfully completes the educational requirements. A student may also reapply for his driver's license at the end of a summer school semester which results in the student having passed at least four (4) courses, or the equivalent of four (4) courses, during the successive spring and summer semesters, and the courses meet the educational requirements for graduation. He shall provide proof issued by his school within the preceding sixty (60) days that he is enrolled and is not academically deficient.

The Committee Substitute to **HB 304** is as follows:

HB 304, AN ACT relating to drivers' licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 159.051 is amended to read as follows:

(1) When a student age sixteen (16) or seventeen (17) drops out of school or is declared to be academically deficient, the school administrator or his designee shall notify the superintendent of schools of the district in which the student is a resident or is enrolled. The reports shall be made at the end of each semester but may be made earlier in the semester for accumulated absences. A student shall be deemed to have dropped out of school when he has nine (9) or more unexcused absences in the preceding semester. Any absences due to suspension shall be unexcused absences. A student shall be deemed to be academically deficient when he has not received passing grades in at least four (4) courses, or the equivalent of four (4) courses, in the preceding semester. The local school board shall adopt a policy to reflect a similar standard for academic deficiency for students in alternative, special education, or part-time programs.

(2) Within ten (10) days after receiving the notification, the superintendent shall report the student's name and Social Security number to the Transportation Cabinet. As soon as possible thereafter, the cabinet shall notify the student that his operator's license, permit, or privilege to operate a motor vehicle has been revoked or denied and shall inform the student of his right to a hearing before the District Court of appropriate venue to show cause as to the reasons his driver's license should be reinstated. Within fifteen (15) days after this notice is sent, the custodial parent, legal guardian, or next friend of the student may request an ex parte hearing before the District Court. The student shall not be charged District Court filing fees. The notification shall inform the student that he is not required to have legal counsel.[~~ Revocation under this subsection shall not be permitted unless the local school district shall operate an alternative education program approved by the Department of Education designed to meet the learning needs of students who are unable to succeed in the regular program.~~]

(3) In order for the student to have his license reinstated, the court shall be satisfied that the license is needed to meet family obligations or family economic considerations which if unsatisfied would create an undue hardship or that the student is the only licensed driver in the household or the student is not considered a dropout or academically deficient pursuant to this section. If the student satisfies the court, the court shall notify the cabinet to reinstate the student's license at no cost. The student, if aggrieved by a decision of the court issued pursuant to this section, may appeal the decision within thirty (30) days to the Circuit Court of appropriate venue. A student who is being schooled at home shall be considered to be enrolled in school.

(4) A student who has had his license revoked under the provisions of this section may reapply for his driver's license as early as the end of the semester during which he enrolls in school and successfully completes the educational requirements. A student may also reapply for his driver's license at the end of a summer school semester which results in the student having passed at least four (4) courses, or the equivalent of four (4) courses, during the successive spring and summer semesters, and the courses meet the educational requirements for graduation. He shall provide proof issued by his school within the preceding sixty (60) days that he is enrolled and is not academically deficient.

(5) Withdrawal of a student from a public school with notification that the student will be home schooled shall not enable the student to avoid the consequences of this section if the basis for entry into home schooling is to avoid the consequences of this section. For purposes of this section, the student shall still be considered to have dropped out of school or to be academically deficient.

HB 447, AN ACT relating to the relocation of utilities in conjunction with a highway construction project.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 177.035 is amended to read as follows:

(1) If the Kentucky State Department of Highways determines that it is necessary for any fireplugs, pipes, mains, conduits, cables, wires, towers, poles, and other equipment and appliances, belonging to any municipality or a municipally-owned utility, or any water district established pursuant to KRS Chapter 74, any water association established pursuant to KRS Chapter 273, any local school district, or any sanitation district established pursuant to KRS Chapter 220, to be removed or relocated on, along, over, or under a highway, in order to construct, reconstruct, relocate, or improve any highway, the municipality, municipally-owned utility, water district, local school district, or the sanitation district shall relocate or remove them in accordance with the order of the Department of Highways. The costs and expenses of relocation or removal required by this section, including the costs of installing facilities in a new location, and the cost of any lands, or any rights or interest in lands, and any other rights, acquired to accomplish the relocation or removal, shall be ascertained and paid by the Department of Highways as a part of the cost of improving or constructing highways.

(2) The department may reimburse a privately owned utility for the cost to relocate the utility's facilities if the relocation is required due to a highway construction project, subject to the following conditions:

- *(a) The department is assured it will be proportionally reimbursed by the Federal Highway Administration for the cost of relocating the facilities;*
- *(b) The utility has received all appropriate permits from the department for its facilities to be in the highway right-of-way;*
- *(c) The utility has submitted to the department, for the department's approval, a plan for relocating the utility's facilities, a cost estimate for the relocation, and a schedule of calendar days for completing the relocation; and*
- *(d) 1. The utility has entered into a written agreement with the department to include the relocation of the facilities as part of the department's construction contract; or*
  - *2. The utility has entered into a written agreement with the department for the utility to remove all of its facilities that conflict with the highway construction project, as determined by the department, prior to letting the construction contract.*

(3) If a private utility enters into an agreement subject to subsection (2)(d)1. of this section, the agreement may provide for the utility to perform a portion or all of the relocation work with employees of the utility.

(4) A private utility that enters an agreement with the department under the provisions of either subsection (2)(d)2. or subsection (3) of this section shall be required to complete the relocation work in compliance with the schedule included in the plan the utility is required to submit under subsection (2)(c) of this section. The provisions of this subsection shall not apply if the department fails to undertake the highway construction project within the time period specified in the agreement, and in this instance, the department shall be required to reimburse the utility any cost the utility has incurred to relocate its facilities in compliance with the plan approved by the department.

(5) The department shall not reimburse a private utility as authorized subsection (2) of this section until the department is satisfied that the utility's facilities have been relocated in conformance with the plan and schedule of calendar days approved by the department.

(6) All statutes to the contrary notwithstanding, a private utility shall be responsible, at its own expense, to inspect all phases of the relocation of the utility's facilities to ensure that the removal or installation of the facilities is completed in accordance with all applicable industry specifications and safety codes, regardless of the entity who is actually removing or installing the facilities.

(7) A private utility shall be required, at its own expense, to relocate its facilities out of the highway right-of-way if the relocation is required due to a highway construction project and the utility had not received the proper permits from the department for its facilities to be on the highway right-of-way.

The Committee Substitute to **HB 447** is as follows:

HB 447, AN ACT relating to the relocation of utilities in conjunction with a highway construction project.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 177.035 is amended to read as follows:

(1) If the~~[Kentucky State]~~ department~~[of Highways]~~ determines that it is necessary for any fireplugs, pipes, mains, conduits,

cables, wires, towers, poles, and other equipment and appliances, belonging to any municipality or a municipally-owned utility, or any water district established pursuant to KRS Chapter 74, any water association established pursuant to KRS Chapter 273, any local school district, or any sanitation district established pursuant to KRS Chapter 220, to be removed or relocated on, along, over, or under a highway, in order to construct, reconstruct, relocate, or improve any highway, the municipality, municipally-owned utility, water district, local school district, or the sanitation district shall relocate or remove them in accordance with the order of the department[~~ of Highways~~]. The costs and expenses of relocation or removal required by this section, including the costs of installing facilities in a new location, and the cost of any lands, or any rights or interest in lands, and any other rights, acquired to accomplish the relocation or removal, shall be ascertained and paid by the department[~~ of Highways~~] as a part of the cost of improving or constructing highways.

(2) The term "utility" as used in subsections (3) to (5) of this section shall mean any utility not referenced in subsection (1) of this section, and the term shall mean any utility as defined in KRS 278.010.

(3) If a utility has facilities located within the public right-of-way pursuant to KRS 416.140, the department may reimburse the utility the cost to relocate the utility's facilities to a location either within or without the public right-of-way if the relocation is required due to a highway construction project, subject to the following conditions:

(a) The utility shall be required to submit to the department for the department's approval a plan for relocating the utility's facilities. The plan shall include:

1. A proposal for the relocation, including plans and a cost estimate developed in accordance with department guidelines; and

2. A reasonable schedule of calendar days for completing the relocation that has been agreed to by the department. If due to circumstances beyond the utility's control, the utility or the department cannot meet the specified completion date included in the plan, the department may grant an extension to the utility for a time period agreed upon by both parties;

(b) The utility shall be required to have either:

1. Entered into a written agreement with the department to include the relocation of the facilities as part of the department's construction contract. The utility may, with the approval of the department, perform a portion of the relocation work under this subparagraph with contractors or employees of the utility; or

2. Entered into a written agreement with the department for the utility to remove all of its facilities that conflict with the highway construction project, as determined by the department, prior to letting the construction contract. The utility may perform a portion or all of the relocation work under this subparagraph with contractors or employees of the utility.

(4) A utility that enters into an agreement with the department under the provisions of subsection (3)(b) of this section shall be required to complete the relocation work in compliance with the schedule included in the plan required to be submitted under subsection (3)(a) of this section. The provisions of this subsection shall not apply if the department fails to undertake the highway construction project within the time period specified in the agreement, and in this instance, the department shall be required to reimburse the utility any allowable cost the utility has incurred to relocate its facilities in compliance with the plan approved by the department.

(5) The department shall reimburse a utility as authorized in subsection (3) of this section if the department is satisfied that the utility's facilities have been relocated in conformance with the plan approved by the department. The utility shall have twelve (12) months from the completion date of the relocation, according to the schedule of calendar days, to submit a reimbursement request for relocation costs to the department.

(6) The provisions of this section shall not amend or affect in any way the provisions of KRS 179.265.

HB 459, AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186A.530 is amended to read as follows:

(1) The owner of a motor vehicle that meets the definition of a salvage vehicle as set forth in KRS 186A.520(1) and has been issued a salvage certificate of title in Kentucky, or the equivalent thereof by another licensing jurisdiction, and has been rebuilt, may make application for a new certificate of title pursuant to KRS 186.115. The Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A governing the form of application.

(2) *Except as provided in subsection (5) of this section,* upon receipt of a salvage certificate of title issued pursuant to KRS 186A.520[~~ or subsection (5) of this section,~~] or similar title issued by another state, and proof of passing the inspection required by KRS 186A.115, the cabinet shall issue a new certificate of title with the words "rebuilt vehicle" printed on the face of the title. The brand shall be carried forward and printed in the appropriate section on the face of all titles issued thereafter for that motor vehicle.

(3) If ownership of a motor vehicle has been transferred to an insurance company through payment of damages, the insurance company making the payment of damages shall be deemed the owner of the vehicle.

(4) The owner of a water damaged vehicle shall make application to the cabinet for a salvage certificate of title as provided for

in KRS 186A.520. The owner of a vehicle with a brand from another jurisdiction identifying the vehicle as water damaged or other similar designation who is making application for a Kentucky title shall be issued a title with the words "water damaged" printed on the face of the title.

(5) A Kentucky salvage certificate of title ***shall not***[~~may~~] be issued ***to any vehicle with***[~~from~~] an out-of-state junking certificate or other ownership document bearing a designation of "junk," "unrebuildable," or other similar classification***. A vehicle with an out-of-state junking certificate or other ownership document bearing a designation of "junk," "unrebuildable," or other similar classification shall not be eligible to be rebuilt under the provisions of this chapter***[~~with the following provisions:~~

~~(a) The out-of-state junking certificate of title or other ownership certificate shall be an original, secure document.~~

~~(b) The applicant shall submit a minimum of two (2) photographs of the motor vehicle showing the damage to the motor vehicle. The photographs shall be included in the application for a salvage certificate of title.~~

~~(c) The applicant shall submit a minimum of two (2) estimates of damage verifying that the condition of the vehicle which has been issued the junking certificate constitutes less than seventy-five percent (75%) of the retail value of the vehicle, as set forth in a current edition of the National Auto Dealers' Association N.A.D.A. price guide~~].

(6) (a) When an insurance company makes a claim settlement on a vehicle that has been stolen and recovered, if the vehicle meets the definition of a salvage vehicle as set forth in KRS 186A.520, the company shall apply for a salvage certificate of title as provided for in KRS 186A.520. Upon receipt of this information, the cabinet shall issue the company a certificate of title to replace a salvage certificate of title. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A regarding the forms and any additional information which insurance companies shall be required to obtain and submit when seeking a certificate of title to replace a salvage certificate of title.

(b) In claim settlements that do not involve transfer of the vehicle to the insurance company, an insurer shall not render payment on a damage claim for a vehicle whose damage meets or exceeds seventy-five percent (75%) of the value of the vehicle, until the insurer has received proof that the owner has surrendered the title or has applied for a salvage certificate of title as set forth in KRS 186A.520. The owner shall apply for a salvage certificate of title within three (3) working days of the agreed settlement. This subsection shall not apply to hail-damaged vehicles under KRS 186A.555.

(c) An insurance company shall not refuse coverage to, and shall not reclassify coverage of, a vehicle that has been issued a rebuilt title pursuant to the provisions of this section.

(7) A motor vehicle owner or a motor vehicle dealer licensed in this state who offers for sale, trade, or transfer a motor vehicle which carries a title brand, as set forth in subsection (2) of this section, shall disclose the nature of the brand to any prospective buyer or transferee, prior to the sale, and according to the following:

(a) Dealer disclosure shall be located on the previous consumer-owner sticker provided for in KRS 190.080. The sticker notification shall appear in a color different from that of the previous consumer-owner sticker and shall be set apart from other information required by KRS 190.080. The sticker wording shall be printed in at least ten (10) point, bold face type, on a background of obviously different color, and shall include the following: "THIS IS A REBUILT VEHICLE." This disclosure information shall not appear on previous consumer-owner stickers for vehicles that do not have a branded title. Dealer disclosure shall also be located on a buyer's notification form to be approved by the Transportation Cabinet. The form shall inform the buyer that the vehicle is a rebuilt vehicle and may include any other information the cabinet deems necessary.

(b) Nondealer disclosure shall be made in accordance with the procedures provided for in KRS 186A.060. The Department of Vehicle Regulation shall ensure that disclosure information appears near the beginning of the application for title and informs the buyer that the vehicle is a rebuilt vehicle.

(8) Failure of a dealer to procure the buyer's acknowledgment signature on the buyer's notification form or failure of any person other than a dealer to procure the buyer's acknowledgment signature on the vehicle transaction record form shall render the sale voidable at the election of the buyer. The election to render the sale voidable shall be limited to forty-five (45) days after issuance of the title. This provision shall not bar any other remedies otherwise available to the purchaser.

(9) The notification provisions of this section shall not apply to motor vehicles more than ten (10) model years old.

(10) The Transportation Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A[~~,~~] regarding the administration of the title branding procedure ***and***[~~within ninety (90) days from July 15, 1994. The administrative regulations~~] may include designation of additional brands which provide significant information to the owner.

HB 495, AN ACT relating to commercial drivers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 281A.190 is amended to read as follows:

(1) A person shall be disqualified from driving a commercial motor vehicle for a period of one (1) year if convicted of:

(a) Driving a commercial motor vehicle under the influence of alcohol or a controlled substance;

(b) Driving a commercial motor vehicle while the alcohol concentration of the person's blood or breath or urine is four hundredths (0.04) or more;

(c) Leaving the scene of an accident involving a commercial motor vehicle driven by the person;

(d) Using a commercial motor vehicle in the commission of any felony listed in KRS 186.560; or

(e) Refusing to submit to testing as required by KRS 281A.220.

(2) A person shall be disqualified for life if convicted of two (2) or more violations of any of the offenses specified in subsection (1) of this section or any combination of those offenses, arising from two (2) or more separate incidents. The provisions of this subsection shall only apply to convictions that occurred after the disqualification dates established by the Federal Highway Administration. The Transportation Cabinet shall set forth those dates in an administrative regulation promulgated pursuant to KRS Chapter 13A.

(3) If any violation specified in subsection (1) of this section occurred while transporting a hazardous material required to be placarded, the person shall be disqualified for a period of three (3) years.

(4) Notwithstanding any other provisions of law, a period of suspension, revocation, or disqualification imposed under the provisions of this chapter shall not be reduced. However, in accordance with the provisions of Title 49, Code of Federal Regulations, Part 383, the cabinet may establish guidelines including conditions under which a disqualification of not less than ten (10) years may be imposed.

(5) A person shall be disqualified from driving a commercial motor vehicle for life who uses a commercial motor vehicle in the commission of any felony involving the manufacture, distribution, or dispensing of a controlled substance, or possession with intent to manufacture, distribute, or dispense a controlled substance.

(6) A person shall be disqualified from driving a commercial motor vehicle for a period of sixty (60) days if convicted of two (2) serious traffic violations, or one hundred twenty (120) days if convicted of three (3) serious traffic violations, committed in a commercial motor vehicle arising from separate incidents occurring within a three (3) year period.

(7) A person shall be disqualified for the first offense from driving a commercial motor vehicle for six (6) months if the person has been convicted of committing any of those offenses enumerated in KRS 186.610 involving a commercial motor vehicle, commercial driver's license, or application for that license. For the second and each subsequent offense, the person shall be disqualified from operating a commercial motor vehicle for a period of one (1) year.

(8) The cabinet shall deny a person a commercial driver's license or shall suspend, revoke, or cancel his commercial driving privilege, subject to a hearing conducted in accordance with KRS 186.570, when the cabinet has reason to believe that the person refused to submit to a test to determine his alcohol concentration while driving a commercial motor vehicle.

(9) After suspending, revoking, or canceling a commercial driver's license, the Transportation Cabinet shall update its records to reflect that action forthwith. After determining that the commercial driver's privilege should be suspended, revoked, or canceled, the Transportation Cabinet shall notify the licensing authority of the state which issued the commercial driver's license or commercial driver's instruction permit with this information within ten (10) days.

(10) Notwithstanding any other provision of law, a driver shall not be disqualified from driving a commercial motor vehicle and shall not have his or her commercial driver's license suspended, revoked, or cancelled under the provisions of this chapter due to the issuance of a citation to the driver for the failure of his or her employer to pay license or registration fees or taxes on a commercial motor vehicle. The cabinet shall, upon payment of the license or registration fees or taxes, or upon other disposition, remove the citation from the driver's record in the commercial driver's license information system.

The Committee Substitute to **HB 495** is as follows:

HB 495, AN ACT relating to commercial drivers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 281 IS CREATED TO READ AS FOLLOWS:

(1) An officer or inspector of the Division of Motor Vehicle Enforcement shall impound any commercial vehicle and, subject to the provisions of subsection (2) of this section, prohibit it from being further operated on the highways of the Commonwealth if the commercial motor vehicle is being operated:

(a) With improper or invalid registration;

(b) Without registration; or

(c) With outstanding taxes due on the vehicle.

(2) A vehicle impounded under this section shall be affixed with an out-of-service notice and shall not be further operated until the registration or taxation issue that caused the vehicle to be impounded is resolved.

Section 2. KRS 186.570 is amended to read as follows:

(1) The cabinet or its agent designated in writing for that purpose may deny any person an operator's license or may suspend

the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, subject to a hearing and with or without receiving a record of conviction of that person of a crime, if the cabinet has reason to believe that:

(a) That person has committed any offenses for the conviction of which mandatory revocation of a license is provided by KRS 186.560.

(b) That person has, by reckless or unlawful operation of a motor vehicle, caused, or contributed to an accident resulting in death or injury or serious property damage.

(c) That person has a mental or physical disability that makes it unsafe for him to drive upon the highways. The Transportation Cabinet shall, by administrative regulations promulgated pursuant to KRS Chapter 13A, establish a medical review board to provide technical assistance in the review of the driving ability of these persons. The board shall consist of licensed medical and rehabilitation specialists.

(d) That person is an habitually reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws.

(e) That person has been issued a license without making proper application for it, as provided in KRS 186.412 and administrative regulations promulgated pursuant to KRS Chapter 13A.

(f) That person has presented false or misleading information as to the person's residency, citizenship, religious convictions, or immigration status.

(g) A person required by KRS 186.480 to take an examination has been issued a license without first having passed the examination.

(h) That person has been convicted of assault and battery resulting from the operation of a motor vehicle.

(i) That person has failed to appear pursuant to a ***moving traffic*** citation or summons issued by a law enforcement officer of this Commonwealth or any other jurisdiction.

(j) That person has failed to appear pursuant to an order by the court to produce proof of security required by KRS 304.39-010 and a receipt showing that a premium for a minimum policy period of six (6) months has been paid.

(2) The cabinet shall deny any person a license or shall suspend the license of an operator of a motor vehicle upon receiving written notification from the Cabinet for Families and Children that the person has a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment or failure, after receiving appropriate notice, to comply with a subpoena or warrant relating to paternity or child support proceedings, as provided by 42 U.S.C. secs. 651 et seq.; except that any child support arrearage which exists prior to January 1, 1994, shall not be included in the calculation to determine whether the license of an operator of a motor vehicle shall be denied or suspended. The denial or suspension shall continue until the arrearage has been eliminated, payments on the child support arrearage are being made in accordance with a court or administrative order, or the person complies with the subpoena or warrant relating to paternity or child support. Before the license may be reinstated, proof of elimination of the child support arrearage or proof of compliance with the subpoena or warrant relating to paternity or child support proceedings as provided by 42 U.S.C. sec. 666(a)(16) from the court where the action is pending or the Cabinet for Families and Children shall be received by the Transportation Cabinet as prescribed by administrative regulations promulgated by the Cabinet for Families and Children and the Transportation Cabinet.

(3) The cabinet or its agent designated in writing for that purpose shall deny any person an operator's license or shall suspend the operator's license of any person, or, in the case of a nonresident, withdraw the privilege of operating a motor vehicle in this state, where the person has been declared ineligible to operate a motor vehicle under KRS 532.356 for the duration of the ineligibility, upon notification of the court's judgment.

(4) The cabinet or its agent designated in writing for that purpose shall provide any person subject to the suspension, revocation, or withdrawal of their driving privileges, under provisions of this section, an informal hearing. Upon determining that the action is warranted, the cabinet shall notify the person in writing by mailing the notice to the person by first-class mail to the last known address of the person. The hearing shall be automatically waived if not requested within twenty (20) days after the cabinet mails the notice. The hearing shall be scheduled as early as practical within twenty (20) days after receipt of the request at a time and place designated by the cabinet. An aggrieved party may appeal a decision rendered as a result of an informal hearing, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(5) (a) The cabinet may suspend the operator's license of any resident upon receiving notice of the conviction of that person in another state of an offense there which, if committed in this state, would be grounds for the suspension or revocation of an operator's license. The cabinet shall not suspend an operator's license under this paragraph if:

1. The conviction causing the suspension or revocation is more than five (5) years old;
2. The conviction is for a traffic offense other than a felony traffic offense or a habitual violator offense; and
3. The license holder complies with the provisions of KRS 186.442.

(b) If, at the time of application for an initial Kentucky operator's license, a person's license is suspended or revoked in another state for a conviction that is less than five (5) years old, the cabinet shall deny the person a license until the person resolves the matter in the other state and complies with the provisions of this chapter.

(c) The cabinet may, upon receiving a record of the conviction in this state of a nonresident driver of a motor vehicle of any offense under the motor vehicle laws, forward a notice of that person's conviction to the proper officer in the state of which the convicted person is a resident.

(d) This subsection shall not apply to a commercial driver's license.

(6) The Transportation Cabinet is forbidden from suspending or revoking an operator's license or assessing points or any other form of penalty against the license holder for speeding violations or speeding convictions from other states. This subsection shall apply only to speeding violations. This section shall not apply to a commercial driver's license.

(7) Each operator's license which has been canceled, suspended, or revoked shall be surrendered to and retained by the cabinet. At the end of the period of cancellation, suspension, or revocation, the license may be returned to the licensee after he has complied with all requirements for the issuance or reinstatement of his driving privilege.

(8) Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder's driving privilege has been suspended or denied pursuant to subsection (2) of this section.

The Committee Amendment No. 1 Title to **HB 495** is as follows:

HB 495, On page 1, amend the title to read as follows:

"AN ACT relating to the operation of motor vehicles.".

SB 160, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
  1. The Governor.
  2. Lieutenant Governor.
  3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
  4. Department of Law.
    (a) Attorney General.
  5. Department of the Treasury.
    (a) Treasurer.
  6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
  7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:
  1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.
    (c) Department of Corrections.

(d) Department of Juvenile Justice.
(e) Office of the Secretary.
(f) Offices of the Deputy Secretaries.
(g) Office of General Counsel.
(h) Division of Kentucky State Medical Examiners Office.
(i) Parole Board.
(j) Kentucky State Corrections Commission.
(k) Commission on Correction and Community Service.

2. Education, Arts, and Humanities Cabinet:
(a) Department of Education.
(1) Kentucky Board of Education.
(b) Department for Libraries and Archives.
(c) Kentucky Arts Council.
(d) Kentucky Educational Television.
(e) Kentucky Historical Society.
(f) Kentucky Teachers' Retirement System Board of Trustees.
(g) Kentucky Center for the Arts.
(h) Kentucky Craft Marketing Program.
(i) Kentucky Commission on the Deaf and Hard of Hearing.
(j) Governor's Scholars Program.
(k) Governor's School for the Arts.
(l) Operations and Development Office.
(m) Kentucky Heritage Council.
(n) Kentucky African-American Heritage Commission.
(o) Board of Directors for the Center for School Safety.

3. Natural Resources and Environmental Protection Cabinet:
(a) Environmental Quality Commission.
(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.
(g) Office of Information Services.
(h) Office of Inspector General.

4. Transportation Cabinet:
(a) Department of Highways.
1. Office of Program Planning and Management.
2. Office of Project Development.
3. Office of Construction and Operations.
4. Office of Intermodal Programs.
5. Highway District Offices One through Twelve.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Department of Human Resources Management.
(g) Office of the Secretary.
(h) Office of ***Legal Services***~~[General Counsel and Legislative Affairs]~~.

(i) Office of Public Affairs.
(j) Office of Transportation Delivery.
(k) Office of Minority Affairs.
(l) Office of Policy and Budget.
(m) Office of Technology.
(n) Office of Quality.
(o) Office of the Transportation Operations Center.
(p) Office of Inspector General.
(q) Office of Legislative and Intergovernmental Affairs.

5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department for Business Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Department for Regional Development.
(f) Tobacco Research Board.
(g) Kentucky Economic Development Finance Authority.

6. Public Protection and Regulation Cabinet:
(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.
(m) Office of Petroleum Storage Tank Environmental Assurance Fund.
(n) Department of Charitable Gaming.
(o) Mine Safety Review Commission.

7. Cabinet for Families and Children:
(a) Department for Community Based Services.
(b) Department for Disability Determination Services.
(c) Public Assistance Appeals Board.
(d) Office of the Secretary.
  (1) Kentucky Commission on Community Volunteerism and Service.
(e) Office of the General Counsel.
(f) Office of Program Support.
(g) Office of Family Resource and Youth Services Centers.
(h) Office of Technology Services.
(i) Office of the Ombudsman.
(j) Office of Human Resource Management.

8. Cabinet for Health Services.
(a) Department for Public Health.
(b) Department for Medicaid Services.
(c) Department for Mental Health and Mental Retardation Services.

- (d) Kentucky Commission on Children with Special Health Care Needs.
- (e) Office of Certificate of Need.
- (f) Office of the Secretary.
- (g) Office of the General Counsel.
- (h) Office of the Inspector General.
- (i) Office of Aging Services.

9. Finance and Administration Cabinet:
    - (a) Office of Financial Management.
    - (b) Office of the Controller.
    - (c) Department for Administration.
    - (d) Department of Facilities Management.
    - (e) State Property and Buildings Commission.
    - (f) Kentucky Pollution Abatement Authority.
    - (g) Kentucky Savings Bond Authority.
    - (h) Deferred Compensation Systems.
    - (i) Office of Equal Employment Opportunity Contract Compliance.
    - (j) Office of Capital Plaza Operations.
    - (k) County Officials Compensation Board.
    - (l) Kentucky Employees Retirement Systems.
    - (m) Commonwealth Credit Union.
    - (n) State Investment Commission.
    - (o) Kentucky Housing Corporation.
    - (p) Governmental Services Center.
    - (q) Kentucky Local Correctional Facilities Construction Authority.
    - (r) Kentucky Turnpike Authority.
    - (s) Historic Properties Advisory Commission.
    - (t) Kentucky Tobacco Settlement Trust Corporation.
    - (u) Eastern Kentucky Exposition Center Corporation.
    - (v) State Board for Proprietary Education.
10. Labor Cabinet:
    - (a) Department of Workplace Standards.
    - (b) Department of Workers' Claims.
    - (c) Kentucky Labor-Management Advisory Council.
    - (d) Occupational Safety and Health Standards Board.
    - (e) Prevailing Wage Review Board.
    - (f) Workers' Compensation Board.
    - (g) Kentucky Employees Insurance Association.
    - (h) Apprenticeship and Training Council.
    - (i) State Labor Relations Board.
    - (j) Kentucky Occupational Safety and Health Review Commission.
    - (k) Office of Administrative Services.
    - (l) Office of Information Technology.
    - (m) Office of Labor-Management Relations and Mediation.
    - (n) Office of General Counsel.
    - (o) Workers' Compensation Funding Commission.
    - (p) Employers Mutual Insurance Authority.
11. Revenue Cabinet:
    - (a) Department of Property Valuation.

(b) Department of Tax Administration.
(c) Office of Financial and Administrative Services.
(d) Department of Law.
(e) Department of Information Technology.
(f) Office of Taxpayer Ombudsman.

12. Tourism Development Cabinet:
(a) Department of Travel.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of General Counsel.
(h) Tourism Development Finance Authority.

13. Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.
(f) Kentucky Technical Education Personnel Board.
(g) The Foundation for Adult Education.
(h) Department for Training and Reemployment.
(i) Office of General Counsel.
(j) Office of Communication Services.
(k) Office of Workforce Partnerships.
(l) Office of Workforce Analysis and Research.
(m) Office of Budget and Administrative Services.
(n) Office of Technology Services.
(o) Office of Quality and Human Resources.
(p) Unemployment Insurance Commission.

14. Personnel Cabinet:
(a) Office of Administrative and Legal Services.
(b) Department for Personnel Administration.
(c) Department for Employee Relations.
(d) Kentucky Public Employees Deferred Compensation Authority.
(e) Kentucky Kare.
(f) Division of Performance Management.
(g) Division of Employee Records.
(h) Division of Staffing Services.
(i) Division of Classification and Compensation.
(j) Division of Employee Benefits.
(k) Division of Communications and Recognition.
(l) Office of Public Employee Health Insurance.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Council on Postsecondary Education.
3. Department for Local Government.

4. Kentucky Commission on Human Rights.

5. Kentucky Commission on Women.

6. Department of Veterans' Affairs.

7. Kentucky Commission on Military Affairs.

8. The Governor's Office for Technology.

9. Commission on Small Business Advocacy.

10. Education Professional Standards Board.

Section 2. KRS 174.020 is amended to read as follows:

(1) The Transportation Cabinet shall consist of the following major organizational units:

(a) The Office of the Secretary, which shall include, but not be limited to:

1. The secretary to be appointed by the Governor under KRS 12.255; and

2. The deputy secretary appointed under KRS 12.040;

(b) The Department of Highways, headed by a commissioner, appointed by the Governor under KRS 12.040 on the recommendation of the secretary;

(c) The Department of Vehicle Regulation, headed by a commissioner, appointed by the secretary with the approval of the Governor, under KRS 12.040;

(d) The Department of Rural and Municipal Aid, headed by a commissioner appointed by the Governor under KRS 12.040;

(e) The Department of Fiscal Management, headed by a commissioner appointed by the Governor under KRS 12.040;

(f) The Department of Administrative Services, headed by a commissioner appointed by the Governor under KRS 12.040;

(g) The Department of Human Resources Management, headed by a commissioner appointed by the Governor under KRS 12.040;

(h) The following offices, which shall be attached to the Office of the Secretary:

1. The Office of Public Affairs, headed by an executive director appointed under KRS 12.040;

2. The Office of Policy and Budget, headed by an executive director appointed under KRS 12.040;

3. The Office of Transportation Delivery, headed by an executive director appointed under KRS 12.040;

4. The Office of ***Legal Services***~~[General Counsel and Legislative Affairs]~~, headed by an executive director appointed under KRS 12.040;

5. The Office of Minority Affairs, headed by an executive director appointed under KRS 12.040;

6. The Office of Technology, headed by an executive director appointed under KRS 12.040;

7. The Office of Quality, headed by an executive director appointed under KRS 12.040;

8. The Office of Transportation Operations Center, headed by an executive director appointed under KRS 12.040;

9. The Office of Inspector General, headed by an executive director appointed under KRS 12.040;

10. The Office of Legislative and Intergovernmental Affairs, headed by an executive director appointed under KRS 12.040;

(i) The following offices, which shall be attached to the Department of Highways:

1. The Office of Program Planning and Management, headed by an executive director appointed under KRS 12.040, who shall be a registered professional engineer under KRS Chapter 322, and known as the deputy state highway engineer for program planning and management;

2. The Office of Project Development, headed by an executive director appointed under KRS 12.040, who shall be a registered professional engineer under KRS Chapter 322, and who shall be known as the deputy state highway engineer for project development;

3. The Office of Construction and Operations, headed by an executive director appointed under KRS 12.040, who shall be a registered professional engineer under KRS Chapter 322, and who shall be known as the deputy state highway engineer for construction and operations;

4. The Office of Intermodal Programs, headed by an executive director appointed under KRS 12.040, who shall be a registered professional engineer under KRS Chapter 322, and who shall be known as the deputy state highway engineer for intermodal programs. The Kentucky Airport Zoning Commission established by KRS 183.861 shall be attached to the Division of Aeronautics within the Office of Intermodal Programs for administrative purposes; and

5. Highway District Offices One through Twelve, each district office to be headed by a chief highway district engineer, appointed by the secretary upon the recommendation of the commissioner and the state highway engineer, with the approval of the Governor.

(2) The positions of director in the Division of Fleet Management, Division of Professional Services, and Division of Environmental Analysis are policy-making positions under KRS 18A.175.

Section 3. KRS 174.025 is amended to read as follows:

The executive director of the Office of ***Legal Services***~~[General Counsel and Legislative Affairs]~~ may also serve as general counsel if so appointed pursuant to KRS 12.210. The Office of ***Legal Services***~~[General Counsel and Legislative Affairs]~~ shall be directly responsible to the secretary and shall perform *any*~~[such]~~ duties as may be assigned by the secretary. The office shall consist of~~[such appointed pursuant to KRS 12.210 and]~~ such employees as necessary to perform the duties, responsibilities, and functions of the office.

SECTION 4. A NEW SECTION OF KRS CHAPTER 174 IS CREATED TO READ AS FOLLOWS:

The executive director of the Office of Legislative and Intergovernmental Affairs shall be responsible for reviewing all legislation, coordinating all cabinet responses to legislative committees, chairing the cabinet's committee on legislative issues, and ensuring communication and compliance with federal programs. The executive director:

(1) Shall be directly responsible and report to the secretary; and

(2) May, with the approval of the secretary, employ the staff necessary to perform the duties, functions, and responsibilities of the office.

SECTION 5. A NEW SECTION OF KRS CHAPTER 174 IS CREATED TO READ AS FOLLOWS:

The executive director of the Office of Inspector General shall be responsible for cabinet internal investigations, oversight of program integrity, and attendant compliance issues. The executive director:

(1) Shall be directly responsible and report to the secretary; and

(2) May, with the approval of the secretary, employ the staff necessary to perform the duties, functions, and responsibilities of the office.

Section 6. Notwithstanding any provision of KRS Chapter 13A, all administrative regulations in effect on the effective date of this Act pursuant to the statutory authority granted to an agency affected by the provisions of this Act shall remain in effect as they exist on the effective date of this Act until the agency amends or repeals the administration regulation pursuant to KRS Chapter 13A. The regulations compiler shall change the appropriate administrative regulations in accordance with the provisions of this Act. The agencies affected by the provisions of this Act shall provide a listing of the administrative regulations that require any changes to the regulations compiler.

Section 7. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 8. Any provision of law to the contrary notwithstanding, the General Assembly hereby confirms the portion of the Governor's Executive Order 2003-064, dated December 23, 2003, relating to the Transportation Cabinet, and the Governor's Executive Order 2004-027 dated January 6, 2004, to the extent that they are not otherwise confirmed or superseded by this Act.

The Committee on Elections, Constitutional Amendments, and Intergovernmental Relations reported **HB 446**, with Committee Substitute attached thereto, and **HCR 17** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 446, AN ACT relating to political advertising.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.015 is amended to read as follows:

As used in this chapter:

(1) "Registry" means the Kentucky Registry of Election Finance;

(2) "Election" means any primary, runoff primary, regular, or special election to fill vacancies regardless of whether a candidate or slate of candidates is opposed or unopposed in an election. Each primary, runoff primary, regular, or special election shall be considered a separate election;

(3) "Committee" includes the following:

(a) "Campaign committee," which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific candidates or slates of candidates for nomination or election to any state, county, city, or district office, but does not include an entity established solely by a candidate which is managed solely by a candidate and a campaign treasurer and whose name is generic in nature, such as "Friends of (the candidate)," and does not reflect that other persons have structured themselves as a committee, designated officers of the committee, and assigned responsibilities and duties to each officer with the purpose of managing a campaign to support or oppose a candidate in an election;

(b) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question which appears on the ballot if that committee receives or expends money in excess of one thousand dollars ($1,000);

(c) "Permanent committee," which means a group of individuals, including an association, committee or organization, other than a campaign committee, political issues committee, inaugural committee, or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose expressly advocating the election or defeat of one (1) or more clearly identified candidates, slates of candidates, or political parties, which functions on a regular basis throughout the year;

(d) An executive committee of a political party; and

(e) "Inaugural committee," which means one (1) or more persons who receive contributions and make expenditures in support of inauguration activities for any candidate or slate of candidates elected to any state, county, city, or district office;

(4) "Contributing organization" means a group which merely contributes to candidates, campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contributions made by the groups in excess of one hundred dollars ($100) shall be reported to the registry;

(5) "Testimonial affair" means an affair held in honor of a person who holds or who is or was a candidate for nomination or election to a political office in this state designed to raise funds for any purpose not charitable, religious, or educational;

(6) "Contribution" means any:

(a) Payment, distribution, loan, deposit, or gift of money or other thing of value, to a candidate, his agent, a slate of candidates, its authorized agent, a committee, or contributing organization. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, contributing organization, candidate, slate of candidates, or other primary obligor. No person shall become liable as surety, endorser, or guarantor for any sum in any one (1) election which, when combined with all other contributions the individual makes to a candidate, his agent, a slate of candidates, its agent, a committee, or a contributing organization, exceeds the contribution limits provided in KRS 121A.050 or KRS 121.150;

(b) Payment by any person other than the candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or a contributing organization, of compensation for the personal services of another person which are rendered to a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;

(c) Goods, advertising, or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are furnished to a candidate, slate of candidates, committee, or contributing organization or for inauguration activities without charge, or at a rate which is less than the rate normally charged for the goods or services; or

(d) Payment by any person other than a candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or contributing organization for any goods or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are utilized by a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;

(7) Notwithstanding the foregoing meanings of "contribution," the word shall not be construed to include:

(a) Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, committee, or contributing organization;

(b) A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business; or

(c) An independent expenditure by any individual or permanent committee;

(8) "Candidate" means any person who has received contributions or made expenditures, has appointed a campaign treasurer, or has given his consent for any other person to receive contributions or make expenditures with a view to bringing about his nomination or election to public office, except federal office;

(9) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration pursuant to KRS 118.127, received contributions or made expenditures, appointed a campaign treasurer, designated a campaign depository, or given their consent for any other person to receive contributions or make expenditures with a view to bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates;

(10) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person

is aware or should have been aware that his conduct is of that nature or that the circumstance exists;

(11) "Fundraiser" means an individual who directly solicits and secures contributions on behalf of a candidate or slate of candidates for a statewide-elected state office or an office in a jurisdiction with a population in excess of two hundred thousand (200,000) residents;

(12) "Independent expenditure" means the expenditure of money or other things of value for a communication which expressly advocates the election or defeat of a clearly identified candidate or slate of candidates, and which is made without any coordination, consultation, or cooperation with any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them, and which is not made in concert with, or at the request or suggestion of any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them;

(13) "Electronic reporting" means the use of technology, having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities, by which an individual or other entity submits, compiles, or transmits campaign finance reports to the registry, or by which the registry receives, stores, analyzes, or discloses the reports;

(14) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures;

(15) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record;

(16) "Filer" means any candidate, committee, or other individual or entity required to submit financial disclosure reports to the registry;~~[and]~~

(17) "Filer-side software" means software provided to or used by the filer that enables transmittal of financial reports to the registry*;*

(18) "Full screen" means that the only picture appearing on the television screen during the oral disclosure statement contains the disclosing person, that the picture occupies all visible space on the television screen, and that the image of the disclosing person occupies at least fifty percent (50%) of the vertical height of the television screen;

(19) "Radio" means any radio broadcast station that is subject to the provisions of 47 U.S.C. secs. 315 and 317;

(20) "Scan line" means a standard term of measurement used in the electronic media industry to calculate a certain area in a television advertisement;

(21) "Sponsor" means a candidate, committee, individual, or any other entity that purchases an advertisement;

(22) "Television" means any television broadcast station, cable television system, wireless-cable multipoint distribution system, satellite company, or telephone company transmitting video programming that is subject to the provisions of 47 U.S.C. secs. 315 and 317; and

(23) "Unobscured" means the only printed material that may appear on the television screen is a visual disclosure statement required by law, and nothing is blocking the view of the disclosing person's face.

Section 2. KRS 121.190 is amended to read as follows:

(1) All newspaper or magazine advertising, posters, circulars, billboards, handbills, sample ballots, and paid-for television or radio announcements which expressly advocate the election or defeat of a clearly identified candidate, slate of candidates, or group of candidates for nomination or election to any public office shall be identified by the words "paid for by" followed by the name and address of the individual or committee which paid for the communication; except that if paid for by a candidate, slate of candidates, or campaign committee, it shall be identified only by the words "paid for by" followed by the name of the candidate, slate of candidates, or campaign committee, whichever is applicable. For television and radio broadcasts, compliance with Federal Communications Commission regulations regarding sponsored programs and broadcasts by candidates for public office shall be considered compliance with this *subsection*~~[section]~~.

(2) *In addition to the provisions of subsection (1) of this section, any political campaign advertisement on radio or television shall comply with the expanded disclosure requirements set forth in subsections (2), (3), (4), and (5) of this section. To the extent that it provides the same information required by subsection (1) of this section, a statement made pursuant to subsections (2), (3), (4), and (5) of this section satisfies the requirements of subsection (1) of this section for the same advertisement.*

(3) (a) Television advertisements purchased by a candidate or by a campaign committee supporting or opposing the nomination or election of one (1) or more clearly identified candidates shall include a disclosure statement spoken by the candidate and containing at least the following words: "I am (or "This is") [name of candidate], candidate for [name of office], and I (or "my campaign") sponsored this ad." This paragraph applies only to an advertisement that mentions the name of, shows the picture of, transmits the voice of, or otherwise refers to an opposing candidate for the same office as the sponsoring candidate or campaign committee. For purposes of this paragraph, the disclosure statement of a slate of candidates for Governor and Lieutenant Governor may be spoken by either member of the slate and shall contain at least the following words: "We are [names of slate], candidates for Governor and Lieutenant Governor, and we (or "our campaign") sponsored this ad."

(b) Television advertisements purchased by an executive committee supporting or opposing the nomination or election of one (1) or more clearly identified candidates shall include a disclosure statement spoken by the chair, executive director, or treasurer of the executive committee and containing at least the following words: "The [name of executive committee] sponsored this ad opposing/supporting [name of candidate] for [name of office]." The disclosed name of the executive committee shall include the title of the political party as it appears on the ballot.

(c) Television advertisements purchased by a permanent committee supporting or opposing the nomination or election of one (1) or more clearly identified candidates shall include a disclosure statement spoken by the chairman or treasurer of the permanent committee and containing at least the following words: "The [name of permanent committee] permanent committee sponsored this ad opposing/supporting [name of candidate] for [name of office]." The name of the permanent committee used in the advertisement shall be the name that appears on the statement of organization as required in KRS 121.170.

(d) Television advertisements purchased by an individual supporting or opposing the nomination or election of one (1) or more clearly identified candidates shall include a disclosure statement spoken by the individual and containing at least the following words: "I am [individual's name], and I sponsored this advertisement opposing/supporting [name of candidate] for [name of office]."

(e) Television advertisements purchased by a sponsor other than a candidate, a campaign committee, an executive committee, a permanent committee, or an individual, which support or oppose the nomination or election of one (1) or more clearly identified candidates shall include a disclosure statement spoken by the chief executive or principal decision maker of the sponsor and containing at least the following words: "[Name of sponsor] sponsored this ad."

(f) In any television advertisement described in paragraphs (a) through (e) of this subsection, an unobscured, full screen picture containing the disclosing individual, either in photographic form or through the actual appearance of the disclosing individual on camera, shall be featured throughout the duration of the disclosure statement.

(4) (a) Radio advertisements purchased by a candidate or by a campaign committee supporting or opposing the nomination or election of one (1) or more clearly identified candidates shall include a disclosure statement spoken by the candidate and containing at least the following words: "I am (or "This is") [name of candidate], candidate for [name of office], and this ad was paid for (or "sponsored" or "furnished") by [name of candidate or campaign committee that paid for the advertisement]." This paragraph applies only to an advertisement that mentions the name of, transmits the voice of, or otherwise refers to an opposing candidate for the same office as the sponsoring candidate or campaign committee's candidate. For purposes of this paragraph, the disclosure statement of a slate of candidates for Governor and Lieutenant Governor may be spoken by either member of the slate and shall contain at least the following words: "We are [names of slate], candidates for Governor and Lieutenant Governor, and this ad was paid for (or "sponsored" or "furnished") by [name of slate campaign committee that paid for the advertisement]."

(b) Radio advertisements purchased by an executive committee supporting or opposing the nomination or election of one (1) or more clearly identified candidates shall include a disclosure statement spoken by the chair, executive director, or treasurer of the executive committee and containing at least the following words: "This ad opposing/supporting [name of candidate] for [name of office] was paid for (or "sponsored" or "furnished") by [name of political party]." The disclosed name of the executive committee shall include the name of the political party as it appears on the ballot.

(c) Radio advertisements purchased by a permanent committee supporting or opposing the nomination or election of one (1) or more clearly identified candidates shall include a disclosure statement spoken by the chairman or treasurer of the permanent committee and containing at least the following words: "This ad opposing/supporting [name of candidate] for [name of office] was paid for (or "sponsored" or "furnished") by [name of permanent committee] permanent committee." The name of the permanent committee used in the advertisement shall be the name that appears on the statement of organization as required by KRS 121.170.

(d) Radio advertisements purchased by an individual supporting or opposing the nomination or election of one (1) or more clearly identified candidates shall include a disclosure statement spoken by the individual and containing at least the following words: "I am [individual's name], and this ad opposing/supporting [name of candidate] for [name of office] was paid for (or "sponsored" or "furnished") by me."

(e) Radio advertisements purchased by a sponsor other than a candidate, a campaign committee, an executive committee, a permanent committee, or an individual, which support or oppose the nomination or election of one (1) or more clearly identified candidates shall include a disclosure statement spoken by the chief executive or principal decision maker of the sponsor and containing at least the following words: "[Name of sponsor] paid for (or "sponsored" or "furnished") this ad."

(5) (a) In advertisements on television under subsection (3) of this section, a sponsor may place the disclosure statement required by this section at any point during the advertisement, except that if the duration of the advertisement is more than five (5) minutes, the disclosure statement shall be made both at the beginning and

end of the advertisement. The sponsor may provide the oral disclosure statement required by subsection (3) at the same time as the visual disclosure required under subsection (1) of this section is shown, but any visual disclosure legend shall be at least thirty-two (32) scan lines in size. For advertisements on radio under subsection (4) of this section, the placement of the oral disclosure statement shall comply with the requirements of 47 U.S.C. secs. 315 and 317.

(b) In its oral disclosure statement, a sponsoring executive committee, permanent committee, individual, or other noncandidate sponsor shall choose either to identify an advertisement as supporting or opposing the nomination or election of one (1) or more clearly identified candidates.

(c) If an advertisement described in subsections (2), (3), or (4) of this section is jointly sponsored, the disclosure statement shall name all the sponsors and the disclosing individual shall be one (1) of those sponsors. If a candidate is one (1) of the sponsors, that candidate shall be the disclosing individual, and if more than one (1) candidate is the sponsor, at least one (1) of the candidates shall be the disclosing individual.

(6) The management of newspapers and magazines shall keep a one (1) year record of all statements, articles, or advertisements referred to in[~~ subsection (1) of~~] this section, that appear in their publications, however, nothing[~~ in subsection (1) of~~] this section shall be construed to require editors or editorial writers of newspapers and magazines to identify themselves in the manner therein required with any article or editorial written by them as part of their duties as an employee or employer.

(7) A violation of subsections (2), (3), (4), or (5) of this Section shall be subject to the penalties in KRS 121.140(2).

Section 3. KRS 121.990 is amended to read as follows:

(1) Any corporation or any officer, agent, attorney, or employee of a corporation, who knowingly violates any of the provisions of KRS 121.025, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be guilty of a Class D felony.

(2) Any corporation that knowingly violates any of the provisions of KRS 121.035(1) or KRS 121.310(2) shall be fined not more than ten thousand dollars ($10,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(3) Any person who knowingly violates any of the provisions of KRS 121.035(2), 121.045, 121.055, 121.150 to 121.230, 121.310(1), 121.320, or KRS Chapter 121A, shall, for each offense, be guilty of a Class D felony***, except for violations of subsections (2), (3), (4), or (5) of Section 2 of this Act***. Violations of KRS 121.150 to 121.230***, except for violations of subsections (2), (3), (4), or (5) of Section 2 of this Act,*** or KRS Chapter 121A shall include, but shall not be limited to, any of the following acts or omissions:

(a) Failure to make required reports or to file reports at times specified;

(b) Making any false statement or report;

(c) Giving money under a fictitious name; or

(d) Making any communication in violation of KRS 121.190(1).

(4) The nomination for, or election to, an office of any candidate or slate of candidates who knowingly violates any provision of KRS 121.150 to 121.220 or KRS Chapter 121A, ***except for violations of subsections (2), (3), (4), or (5) of Section 2 of this Act,*** or whose campaign treasurer knowingly violates any provision of KRS 121.150 to 121.220 or KRS Chapter 121A, ***except for violations of subsections (2), (3), (4), or (5) of Section 2 of this Act,*** with the knowledge of that candidate or slate of candidates, shall be void, and, upon a final judicial determination of guilt, the office shall be declared vacant and the officeholder shall forfeit all benefits which he would have been entitled to receive had he continued to serve, and the office or candidacy shall be filled as provided by law for the filling of a vacancy. An action to declare a vacancy under this subsection may be brought by the registry, the Attorney General, any candidate or slate of candidates for the office sought to be declared vacant, or any qualified voter.

(5) The Attorney General, Commonwealth's attorney, the registry, or any qualified voter may sue for injunctive relief to compel compliance with the provisions of KRS 121.056 and KRS 121.120 to 121.230 and KRS Chapter 121A.

(6) The Commonwealth's attorney or county attorney for the county in which the candidate or slated candidates reside shall be the chief prosecutor upon receipt of a written request from the registry and shall prosecute any violator under this chapter or KRS Chapter 121A. In the event he fails or refuses to prosecute a violator, upon written request from the registry, the Attorney General shall appoint a special prosecutor with full authority to carry out the provisions of this section.

(7) Any officeholder who knowingly violates the provisions of KRS 121.150(12) shall, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(8) Any Governor or any gubernatorial appointee who knowingly appoints, approves the appointment, or participates in the appointing of any person to any appointive state office or position in violation of KRS 121.056(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(9) Any person who knowingly receives an appointment to any appointive state office or position in violation of KRS

121.056(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant, forfeit all benefits which he would have been entitled to receive, and shall be ineligible to receive an appointment to a state office or position for a period of five (5) years from the date of a final judicial determination of guilt.

(10) Any elected or appointed state officeholder who knowingly awards or participates in the awarding of a contract with the Commonwealth of Kentucky to a person or entity in violation of KRS 121.056(2) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(11) Any person or entity who knowingly receives a contract with the Commonwealth of Kentucky in violation of KRS 121.056(2) shall be guilty of a Class D felony. Upon conviction, the contract shall be canceled, and the person or entity convicted shall be ineligible to receive a contract with the Commonwealth of Kentucky for a period of five (5) years from the date of a final judicial determination of guilt.

(12) Any person who knowingly violates any of the provisions of KRS 121.056(3) shall be guilty of a Class D felony.

(13) Any person who knowingly fails to pay a civil penalty, assessed by the registry or a judicial panel pursuant to KRS 121.140 for violation of campaign finance laws, shall be disqualified from filing for public office until such penalty is paid or the registry rules that settlement has otherwise been made.

(14) Any elected official who knowingly awards or participates in the awarding of a nonbid contract or whose appointee knowingly awards or participates in the awarding of a nonbid contract in violation of KRS 121.330(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(15) Any entity who knowingly receives a nonbid contract with a governing authority in violation of KRS 121.330(2) shall be guilty of a Class D felony. Upon conviction, the nonbid contract shall be canceled, and the entity convicted shall be ineligible to receive a nonbid contract with a governing authority for a period of five (5) years from the date of final judicial determination of guilt.

(16) Any elected official who knowingly awards or participates in awarding of a nonbid contract, lease, or appointment to an office or board or whose appointee knowingly awards or participates in the awarding of a nonbid contract, lease, or appointment to an office or board in violation of KRS 121.330(3) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(17) (a) Any fundraiser who knowingly receives a nonbid contract, lease, or appointment to an office or board or any entity in which he has an interest who knowingly receives a nonbid contract or lease in violation of KRS 121.330(4) shall be guilty of a Class D felony;

(b) Any immediate family member, employer, or employee of a fundraiser who knowingly receives a nonbid contract, lease, or appointment to an office or board in violation of KRS 121.330(4) shall be guilty of a Class D felony; and

(c) Upon conviction, the nonbid contract, lease, or appointment shall be canceled, and the person or entity convicted shall be ineligible to receive a nonbid contract, lease, or appointment with a governing authority for a period of five (5) years from the date of a final judicial determination of guilt.

(18) Any appointed or elected state office holder or any other person who knowingly violates the provisions of KRS 121.120(5) shall be guilty of a Class D felony. In the event a candidate has assumed office, upon a final judicial determination of guilt, his office shall be declared vacant and he shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(19) Any person who knowingly violates the provisions of KRS 121.065(1) shall be guilty of a Class A misdemeanor.

The Committee Substitute to **HB 446** is as follows:

HB 446, AN ACT relating to political advertising.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.015 is amended to read as follows:

As used in this chapter:

(1) "Registry" means the Kentucky Registry of Election Finance;

(2) "Election" means any primary, runoff primary, regular, or special election to fill vacancies regardless of whether a candidate or slate of candidates is opposed or unopposed in an election. Each primary, runoff primary, regular, or special election shall be considered a separate election;

(3) "Committee" includes the following:

(a) "Campaign committee," which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific candidates or slates of candidates for nomination or election to any state, county, city, or district office, but does not include an entity established solely by a candidate which is managed solely by a candidate and a campaign treasurer and whose name is generic in nature, such as "Friends of (the candidate)," and does not reflect that other persons have structured themselves as a committee, designated officers of the committee, and assigned responsibilities and duties to each officer with the purpose of managing a campaign to support or oppose a candidate in an election;

(b) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question which appears on the ballot if that committee receives or expends money in excess of one thousand dollars ($1,000);

(c) "Permanent committee," which means a group of individuals, including an association, committee or organization, other than a campaign committee, political issues committee, inaugural committee, or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose expressly advocating the election or defeat of one (1) or more clearly identified candidates, slates of candidates, or political parties, which functions on a regular basis throughout the year;

(d) An executive committee of a political party; and

(e) "Inaugural committee," which means one (1) or more persons who receive contributions and make expenditures in support of inauguration activities for any candidate or slate of candidates elected to any state, county, city, or district office;

(4) "Contributing organization" means a group which merely contributes to candidates, campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contributions made by the groups in excess of one hundred dollars ($100) shall be reported to the registry;

(5) "Testimonial affair" means an affair held in honor of a person who holds or who is or was a candidate for nomination or election to a political office in this state designed to raise funds for any purpose not charitable, religious, or educational;

(6) "Contribution" means any:

(a) Payment, distribution, loan, deposit, or gift of money or other thing of value, to a candidate, his agent, a slate of candidates, its authorized agent, a committee, or contributing organization. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, contributing organization, candidate, slate of candidates, or other primary obligor. No person shall become liable as surety, endorser, or guarantor for any sum in any one (1) election which, when combined with all other contributions the individual makes to a candidate, his agent, a slate of candidates, its agent, a committee, or a contributing organization, exceeds the contribution limits provided in KRS 121A.050 or KRS 121.150;

(b) Payment by any person other than the candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or a contributing organization, of compensation for the personal services of another person which are rendered to a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;

(c) Goods, advertising, or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are furnished to a candidate, slate of candidates, committee, or contributing organization or for inauguration activities without charge, or at a rate which is less than the rate normally charged for the goods or services; or

(d) Payment by any person other than a candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or contributing organization for any goods or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are utilized by a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;

(7) Notwithstanding the foregoing meanings of "contribution," the word shall not be construed to include:

(a) Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, committee, or contributing organization;

(b) A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business; or

(c) An independent expenditure by any individual or permanent committee;

(8) "Candidate" means any person who has received contributions or made expenditures, has appointed a campaign treasurer, or has given his consent for any other person to receive contributions or make expenditures with a view to bringing about his nomination or election to public office, except federal office;

(9) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration pursuant to KRS 118.127, received contributions or made expenditures, appointed a campaign treasurer, designated a campaign depository, or given their consent for any other person to receive contributions or make expenditures with a view to bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates;

(10) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists;

(11) "Fundraiser" means an individual who directly solicits and secures contributions on behalf of a candidate or slate of candidates for a statewide-elected state office or an office in a jurisdiction with a population in excess of two hundred thousand (200,000) residents;

(12) "Independent expenditure" means the expenditure of money or other things of value for a communication which expressly advocates the election or defeat of a clearly identified candidate or slate of candidates, and which is made without any coordination, consultation, or cooperation with any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them, and which is not made in concert with, or at the request or suggestion of any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them;

(13) "Electronic reporting" means the use of technology, having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities, by which an individual or other entity submits, compiles, or transmits campaign finance reports to the registry, or by which the registry receives, stores, analyzes, or discloses the reports;

(14) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures;

(15) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record;

(16) "Filer" means any candidate, committee, or other individual or entity required to submit financial disclosure reports to the registry;[~~ and~~]

(17) "Filer-side software" means software provided to or used by the filer that enables transmittal of financial reports to the registry***;***

(18) "Full screen" means that the only picture appearing on the television screen during the oral disclosure statement contains the disclosing person, that the picture occupies all visible space on the television screen, and that the image of the disclosing person occupies at least fifty percent (50%) of the vertical height of the television screen;

(19) "Radio" means any radio broadcast station that is subject to the provisions of 47 U.S.C. secs. 315 and 317;

(20) "Sponsor" means a candidate, committee, individual, or any other entity that purchases an advertisement;

(21) "Television" means any television broadcast station, cable television system, wireless-cable multipoint distribution system, satellite company, or telephone company transmitting video programming that is subject to the provisions of 47 U.S.C. secs. 315 and 317; and

(22) "Unobscured" means the only printed material that may appear on the television screen is a visual disclosure statement required by law, and nothing is blocking the view of the disclosing person's face.

Section 2. KRS 121.190 is amended to read as follows:

(1) All newspaper or magazine advertising, posters, circulars, billboards, handbills, sample ballots, and paid-for television or radio announcements which expressly advocate the election or defeat of a clearly identified candidate, slate of candidates, or group of candidates for nomination or election to any public office shall be identified by the words "paid for by" followed by the name and address of the individual or committee which paid for the communication; except that if paid for by a candidate, slate of candidates, or campaign committee, it shall be identified only by the words "paid for by" followed by the name of the candidate, slate of candidates, or campaign committee, whichever is applicable. For television and radio broadcasts, compliance with Federal Communications Commission regulations regarding sponsored programs and broadcasts by candidates for public office shall be considered compliance with this ***subsection***[~~section~~].

(2) ***Any communication which expressly advocates the election or defeat of a clearly identified candidate which is transmitted through radio shall include, in addition to the requirements of subsection (1) of this section, an audio statement by the candidate that identifies the candidate and states that the candidate has approved the communication.***

(3) Any communication which expressly advocates the election or defeat of a clearly identified candidate which is transmitted through television shall include, in addition to the requirements of subsection (1) of this section, a statement that identifies the candidate and states that the candidate has approved the communication. The statement shall be conveyed by:

(a) An unobscured, full-screen view of the candidate making the statement; or

(b) The candidate in voice-over, accompanied by a clearly identifiable photographic or similar image of the candidate; and

shall also appear in writing at the end of the communication in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least four (4) seconds.

(4) Any communication which expressly advocates the election or defeat of a clearly identified candidate which is transmitted through radio or television under subsection (2) or (3) of this section shall include, in addition to the requirements of that subsection, in a clearly spoken manner, the following audio statement: "(name) is responsible for

the content of this advertising." (with the blank to be filled in with the name of the sponsor, executive committee, permanent committee, or other person paying for the communication). If transmitted through television, the statement shall be conveyed by an unobscured, full-screen view of a representative of the sponsor, executive committee, political committee or other person making the statement, or by a representative of the sponsor, executive committee, permanent committee, or other person in voice-over, and shall also appear in a clearly readable manner with a reasonable degree of color contrast between the background and the printed statement, for a period of at least four (4) seconds.

(5) If an advertisement described in subsections (2), (3), or (4) of this section is jointly sponsored, the disclosure statement shall name all the sponsors and the disclosing individual shall be one (1) of those sponsors. If a candidate is one (1) of the sponsors, that candidate shall be the disclosing individual, and if more than one (1) candidate is the sponsor, at least one (1) of the candidates shall be the disclosing individual.

(6) The management of newspapers and magazines shall keep a one (1) year record of all statements, articles, or advertisements referred to in[~~ subsection (1) of~~] this section, that appear in their publications, however, nothing[~~ in subsection (1) of~~] this section shall be construed to require editors or editorial writers of newspapers and magazines to identify themselves in the manner therein required with any article or editorial written by them as part of their duties as an employee or employer.

(7) A violation of subsection (1), (2), (3), (4), or (5) of this section shall be subject to the penalties in KRS 121.140(2).

(8) Subsections (2), (3), (4), and (5) of this section apply to the extent that they do not conflict with the Federal Communications Act of 1934, 47 U.S.C. secs. 315 and 317. No radio or television station shall be held responsible for the content of subsections (2), (3), (4), or (5) of this section.

Section 3. KRS 121.990 is amended to read as follows:

(1) Any corporation or any officer, agent, attorney, or employee of a corporation, who knowingly violates any of the provisions of KRS 121.025, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be guilty of a Class D felony.

(2) Any corporation that knowingly violates any of the provisions of KRS 121.035(1) or KRS 121.310(2) shall be fined not more than ten thousand dollars ($10,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(3) Any person who knowingly violates any of the provisions of KRS 121.035(2), 121.045, 121.055, 121.150 to 121.230, 121.310(1), 121.320, or KRS Chapter 121A, shall, for each offense, be guilty of a Class D felony***, except for violations of subsections (2), (3), (4), or (5) of Section 2 of this Act***. Violations of KRS 121.150 to 121.230***, except for violations of subsections (2), (3), (4), or (5) of Section 2 of this Act,*** or KRS Chapter 121A shall include, but shall not be limited to, any of the following acts or omissions:

(a) Failure to make required reports or to file reports at times specified;

(b) Making any false statement or report;

(c) Giving money under a fictitious name; or

(d) Making any communication in violation of KRS 121.190(1).

(4) The nomination for, or election to, an office of any candidate or slate of candidates who knowingly violates any provision of KRS 121.150 to 121.220 or KRS Chapter 121A, ***except for violations of subsections (2), (3), (4), or (5) of Section 2 of this Act,*** or whose campaign treasurer knowingly violates any provision of KRS 121.150 to 121.220 or KRS Chapter 121A, ***except for violations of subsections (2), (3), (4), or (5) of Section 2 of this Act,*** with the knowledge of that candidate or slate of candidates, shall be void, and, upon a final judicial determination of guilt, the office shall be declared vacant and the officeholder shall forfeit all benefits which he would have been entitled to receive had he continued to serve, and the office or candidacy shall be filled as provided by law for the filling of a vacancy. An action to declare a vacancy under this subsection may be brought by the registry, the Attorney General, any candidate or slate of candidates for the office sought to be declared vacant, or any qualified voter.

(5) The Attorney General, Commonwealth's attorney, the registry, or any qualified voter may sue for injunctive relief to compel compliance with the provisions of KRS 121.056 and KRS 121.120 to 121.230 and KRS Chapter 121A.

(6) The Commonwealth's attorney or county attorney for the county in which the candidate or slated candidates reside shall be the chief prosecutor upon receipt of a written request from the registry and shall prosecute any violator under this chapter or KRS Chapter 121A. In the event he fails or refuses to prosecute a violator, upon written request from the registry, the Attorney General shall appoint a special prosecutor with full authority to carry out the provisions of this section.

(7) Any officeholder who knowingly violates the provisions of KRS 121.150(12) shall, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(8) Any Governor or any gubernatorial appointee who knowingly appoints, approves the appointment, or participates in the appointing of any person to any appointive state office or position in violation of KRS 121.056(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(9) Any person who knowingly receives an appointment to any appointive state office or position in violation of KRS 121.056(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant, forfeit all benefits which he would have been entitled to receive, and shall be ineligible to receive an appointment to a state office or position for a period of five (5) years from the date of a final judicial determination of guilt.

(10) Any elected or appointed state officeholder who knowingly awards or participates in the awarding of a contract with the Commonwealth of Kentucky to a person or entity in violation of KRS 121.056(2) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(11) Any person or entity who knowingly receives a contract with the Commonwealth of Kentucky in violation of KRS 121.056(2) shall be guilty of a Class D felony. Upon conviction, the contract shall be canceled, and the person or entity convicted shall be ineligible to receive a contract with the Commonwealth of Kentucky for a period of five (5) years from the date of a final judicial determination of guilt.

(12) Any person who knowingly violates any of the provisions of KRS 121.056(3) shall be guilty of a Class D felony.

(13) Any person who knowingly fails to pay a civil penalty, assessed by the registry or a judicial panel pursuant to KRS 121.140 for violation of campaign finance laws, shall be disqualified from filing for public office until such penalty is paid or the registry rules that settlement has otherwise been made.

(14) Any elected official who knowingly awards or participates in the awarding of a nonbid contract or whose appointee knowingly awards or participates in the awarding of a nonbid contract in violation of KRS 121.330(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(15) Any entity who knowingly receives a nonbid contract with a governing authority in violation of KRS 121.330(2) shall be guilty of a Class D felony. Upon conviction, the nonbid contract shall be canceled, and the entity convicted shall be ineligible to receive a nonbid contract with a governing authority for a period of five (5) years from the date of final judicial determination of guilt.

(16) Any elected official who knowingly awards or participates in awarding of a nonbid contract, lease, or appointment to an office or board or whose appointee knowingly awards or participates in the awarding of a nonbid contract, lease, or appointment to an office or board in violation of KRS 121.330(3) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(17) (a) Any fundraiser who knowingly receives a nonbid contract, lease, or appointment to an office or board or any entity in which he has an interest who knowingly receives a nonbid contract or lease in violation of KRS 121.330(4) shall be guilty of a Class D felony;

(b) Any immediate family member, employer, or employee of a fundraiser who knowingly receives a nonbid contract, lease, or appointment to an office or board in violation of KRS 121.330(4) shall be guilty of a Class D felony; and

(c) Upon conviction, the nonbid contract, lease, or appointment shall be canceled, and the person or entity convicted shall be ineligible to receive a nonbid contract, lease, or appointment with a governing authority for a period of five (5) years from the date of a final judicial determination of guilt.

(18) Any appointed or elected state office holder or any other person who knowingly violates the provisions of KRS 121.120(5) shall be guilty of a Class D felony. In the event a candidate has assumed office, upon a final judicial determination of guilt, his office shall be declared vacant and he shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(19) Any person who knowingly violates the provisions of KRS 121.065(1) shall be guilty of a Class A misdemeanor.

HCR 17, A CONCURRENT RESOLUTION urging the Congress of the United States to adopt a proposed amendment to the Constitution of the United States to protect the definition of marriage.

WHEREAS, there has been a coordinated, local, state, and federal assault through legislation and through the courts to permit same sex couples to marry or have civil unions with the same privileges of marriage; and

WHEREAS, ultimately, only through amendment of the Constitution of the United States can the traditional and historic view of marriage as a legally sanctioned union of two persons of different sexes be properly protected from assault in the courts and legislative bodies;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein, urges the Congress of the United States to pass an amendment to the Constitution of the United States defining marriage as the union of one man and one woman in marriage.

Section 2. The Clerk of the House of Representatives shall send copies of this Resolution to the clerk of the House of Representatives of the United States, the clerk of the Senate of the United States, and each member of the Kentucky delegation to the Congress of the United States.

The Committee on Economic Development reported **HJR 113**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HJR 113, A JOINT RESOLUTION directing the Department of Corrections, the Cabinet for Economic Development, the Finance and Administration Cabinet, and the Pennyrile Westpark Industrial Development Authority to facilitate the potential sale of the Pennyrile Westpark Industrial Park for the purpose of economic development within the Commonwealth.

WHEREAS, the Department of Corrections, the Cabinet for Economic Development, the Finance and Administration Cabinet, and the Pennyrile Westpark Industrial Development Authority have agreed to designate the Pennyrile Westpark Industrial Park as surplus to the needs of the Commonwealth; and

WHEREAS the aforementioned parties have further agreed to market and, if appropriate, sell the Pennyrile Westpark Industrial Park to a private developer for a single economic development project;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Department of Corrections within the Justice Cabinet shall:

(1) Declare as surplus to its needs, pursuant to 45A.045(4), the Pennyrile Westpark Industrial Park. For the purposes of this Act, and until surveyed pursuant to Section 3 of this Act, the Pennyrile Westpark Industrial Park shall mean Tract 5 of the West Kentucky Correctional Complex in Lyon County, consisting of 531.4 acres, as identified by a survey of Florence & Hutcheson Consulting Engineers on October 24, 1991, for the Finance and Administration Cabinet. Upon completion of the survey pursuant to Section 3 of this Act, the Pennyrile Westpark Industrial Park shall be defined according to the survey. The survey's definition may not include Tract 5 in its entirety, may include a portion of Tract 1, but shall not exceed 531.4 acres;

(2) Upon approval of a project to locate within the Pennyrile Westpark Industrial Park by the Kentucky Economic Development Finance Authority and the Finance and Administration Cabinet pursuant to Section 3 and Section 5 of this Act, transfer the Pennyrile Westpark Industrial Park to the approved buyer at a price established by the Finance and Administration Cabinet pursuant to Section 3 of this Act; and

(3) Cooperate with the parties identified in this Act in order to facilitate the directives set forth in this Act.

Section 2. The Cabinet for Economic Development shall:

(1) Assist in the marketing of the Pennyrile Westpark Industrial Park by listing it in the Cabinet's database and on the Cabinet's website, and by making potential buyers aware of its availability;

(2) Review and make recommendations on the potential purchase of the Pennyrile Westpark Industrial Park, based on the purchase requirements set forth in Section 5 of this Act; and

(3) Cooperate with the parties identified in this Act in order to facilitate the directives set forth in this Act.

Section 3. The Finance and Administration Cabinet shall:

(1) Require and obtain, in cooperation with the Pennyrile Westpark Industrial Development Authority, a survey and exact legal description of the Pennyrile Westpark Industrial Park;

(2) Upon completion of the survey pursuant to this section, require and obtain a fair market value appraisal or appraisals of the Pennyrile Westpark Industrial Park;

(3) Upon completion of the appraisal or appraisals pursuant to this section, establish a minimum sale price equal to the fair market appraised value, and communicate the minimum sale price to the Cabinet for Economic Development and the Pennyrile Westpark Industrial Development Authority;

(4) Designate the Pennyrile Westpark Industrial Park, as defined in the survey required by this section, as surplus to the needs of the Commonwealth pursuant to KRS 45A.045. Notwithstanding KRS 45A.045(4), the Secretary of the Finance and Administration Cabinet shall sell the Pennyrile Westpark Industrial Park pursuant to the provisions of this section;

(5) In conjunction with the Department of Corrections, review any proposed sale of the Pennyrile Westpark Industrial Park, as recommended by the Cabinet for Economic Development and the Pennyrile Westpark Industrial Development Authority, and determine if:

  (a) The proposed purchase price meets the minimum sale price pursuant to subsection (3) of this section; and

  (b) The proposed operations do not interfere with the operations of the Western Kentucky Correctional Farm Complex;

(6) If the proposed project is approved by the Kentucky Economic Development Finance Authority, and if the requirements in subsection (5) of this section are met, oversee the execution of an appropriate contract for the sale of the Pennyrile Westpark Industrial Park, pursuant to KRS 45A.045(4); and

(7) Cooperate with the parties identified in this Act in order to facilitate the directives set forth in this Act.

Section 4. The Pennyrile Westpark Industrial Development Authority shall:

(1) Market the Pennyrile Westpark Industrial Park to private industrial developers in accordance with the minimum sale price set forth in subsection (3) of Section 3 of this Act and in accordance with the purchase requirement set forth in Section 5 of this Act;

(2) If necessary, and if approved by the Department of Corrections and by the Finance and Administration Cabinet, conduct appropriate activities on the sale site for the purposes of marketing the Pennyrile Westpark Industrial Park, including but not limited to engineering studies and aerial photography;

(3) Upon its approval of a potential buyer of the Pennyrile Westpark Industrial Park, transmit all appropriate documents regarding the proposed project to the Economic Development Cabinet for review; and

(4) Cooperate with the parties identified in this Act in order to facilitate the directives set forth in this Act.

Section 5. As a condition of the sale of the Pennyrile Westpark Industrial Park, the Kentucky Economic Development Finance Authority shall approve the proposed project, as recommended by the Pennyrile Westpark Industrial Development Authority and reviewed by the Cabinet for Economic Development, based on the requirement that it be a single economic development project which, based upon size and magnitude alone, could not locate within any existing publicly owned industrial park in Caldwell, Crittenden, Livingston, Lyon, or Trigg Counties.

The Committee Substitute to **HJR 113** is as follows:

HJR 113, A JOINT RESOLUTION directing the Department of Corrections, the Cabinet for Economic Development, the Finance and Administration Cabinet, and the Pennyrile Westpark Industrial Development Authority to facilitate the potential sale of the Pennyrile Westpark Industrial Park for the purpose of economic development within the Commonwealth.

WHEREAS, the Department of Corrections, the Cabinet for Economic Development, the Finance and Administration Cabinet, and the Pennyrile Westpark Industrial Development Authority have agreed to designate the Pennyrile Westpark Industrial Park as surplus to the needs of the Commonwealth; and

WHEREAS the aforementioned parties have further agreed to market and, if appropriate, sell the Pennyrile Westpark Industrial Park to a private developer for a single economic development project;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Department of Corrections within the Justice Cabinet shall:

(1) Declare as surplus to its needs, pursuant to 45A.045(4), the Pennyrile Westpark Industrial Park. For the purposes of this Act, and until surveyed pursuant to Section 3 of this Act, the Pennyrile Westpark Industrial Park shall mean Tract 5 of the West Kentucky Correctional Complex in Lyon County, consisting of 531.4 acres, as identified by a survey of Florence & Hutcheson Consulting Engineers on October 24, 1991, for the Finance and Administration Cabinet. Upon completion of the survey pursuant to Section 3 of this Act, the Pennyrile Westpark Industrial Park shall be defined according to the survey. The survey's definition may not include Tract 5 in its entirety, may include a portion of Tract 1, but shall not exceed 531.4 acres;

(2) Upon approval of a project to locate within the Pennyrile Westpark Industrial Park by the Kentucky Economic Development Finance Authority and the Finance and Administration Cabinet pursuant to Section 3 and Section 5 of this Act, transfer the Pennyrile Westpark Industrial Park to the approved buyer at a price established by the Finance and Administration Cabinet pursuant to Section 3 of this Act; and

(3) Cooperate with the parties identified in this Act in order to facilitate the directives set forth in this Act.

Section 2. The Cabinet for Economic Development shall:

(1) Assist in the marketing of the Pennyrile Westpark Industrial Park by listing it in the Cabinet's database and on the Cabinet's website, and by making potential buyers aware of its availability;

(2) Review and make recommendations on the potential purchase of the Pennyrile Westpark Industrial Park, based on the purchase requirements set forth in Section 5 of this Act; and

(3) Cooperate with the parties identified in this Act in order to facilitate the directives set forth in this Act.

Section 3. The Finance and Administration Cabinet shall:

(1) Require and obtain, in cooperation with the Pennyrile Westpark Industrial Development Authority, a survey and exact legal description of the Pennyrile Westpark Industrial Park;

(2) Upon completion of the survey pursuant to this section, require and obtain a fair market value appraisal or appraisals of the Pennyrile Westpark Industrial Park;

(3) Upon completion of the appraisal or appraisals pursuant to this section, establish a minimum sale price equal to the fair market appraised value, and communicate the minimum sale price to the Cabinet for Economic Development and the

Pennyrile Westpark Industrial Development Authority;

(4) Designate the Pennyrile Westpark Industrial Park, as defined in the survey required by this section, as surplus to the needs of the Commonwealth pursuant to KRS 45A.045. Notwithstanding KRS 45A.045(4), the Secretary of the Finance and Administration Cabinet shall sell the Pennyrile Westpark Industrial Park pursuant to the provisions of this section;

(5) In conjunction with the Department of Corrections, review any proposed sale of the Pennyrile Westpark Industrial Park, as recommended by the Cabinet for Economic Development and the Pennyrile Westpark Industrial Development Authority, and determine if:

(a) The proposed purchase price meets the minimum sale price pursuant to subsection (3) of this section; and

(b) The proposed operations do not interfere with the operations of the Western Kentucky Correctional Farm Complex;

(6) If the proposed project is approved by the Kentucky Economic Development Finance Authority, and if the requirements in subsection (5) of this section are met, oversee the execution of an appropriate contract for the sale of the Pennyrile Westpark Industrial Park, pursuant to KRS 45A.045(4); and

(7) Cooperate with the parties identified in this Act in order to facilitate the directives set forth in this Act.

Section 4. The Pennyrile Westpark Industrial Development Authority shall:

(1) Market the Pennyrile Westpark Industrial Park to private industrial developers in accordance with the minimum sale price set forth in subsection (3) of Section 3 of this Act and in accordance with the purchase requirement set forth in Section 5 of this Act;

(2) If necessary, and if approved by the Department of Corrections and by the Finance and Administration Cabinet, conduct appropriate activities on the sale site for the purposes of marketing the Pennyrile Westpark Industrial Park, including but not limited to engineering studies and aerial photography;

(3) Upon its approval of a potential buyer of the Pennyrile Westpark Industrial Park, transmit all appropriate documents regarding the proposed project to the Economic Development Cabinet for review; and

(4) Cooperate with the parties identified in this Act in order to facilitate the directives set forth in this Act.

Section 5. As a condition of the sale of the Pennyrile Westpark Industrial Park, the Kentucky Economic Development Finance Authority shall approve the proposed project, as recommended by the Pennyrile Westpark Industrial Development Authority and reviewed by the Cabinet for Economic Development, based on the requirement that it be a single economic development project which, based upon size and magnitude alone, could not locate within any existing publicly owned industrial park in Caldwell, Crittenden, Livingston, Lyon, or Trigg Counties.

Section 6. From the effective date of this Act until 30 days prior to the date that the title to the Pennyrile Westpark Industrial Park is transferred, the Department of Corrections may conduct its current on-site operations, or any other operation the department deems necessary for continuation of its present activities at the Pennyrile Westpark Industrial Park. Within 30 days prior to the sale of the property, the department shall conclude all operations at the Pennyrile Westpark Industrial Park. At the point of sale, the Pennyrile Westpark Industrial Park shall be cleared of any equipment the department desires to claim, and all department activity on the Pennyrile Westpark Industrial Park shall permanently cease.

Calendar

HB 10, 540, SB 28, HB 577, 539, SB 161, HB 227, HJR 128, HB 461, 25, 517, and **HCR 112** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved to suspend the rules to retroactively allow the Committee on Appropriations and Revenue to meet upon recess. Agreed.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 25, 461, 517, 539, HCR 112, HJR 128, SB 28, 161, HB 528, SB 45,** and **HB**

477 have been posted for passage in the Regular Orders of the Day for February 27, 2004.

The Committee on Rules reported that the following Bill has been recommitted: Tourism Development and Energy: **HB 577**

Representative Adkins moved that the rules be suspended to allow the House to recess for 30 minutes.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Dr. Thomas D. Clark addressed the House.

Orders of the Day

HB 428 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved that **HB 428** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 26, 2004, roll call on **HB 428** - Appendix.)

HB 428 was passed and the title agreed to.

Representative A. Arnold moved that the vote by which **HB 428** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 323, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of Committee Amendment No. 1 to **HB 323**. Agreed.

Representative Barrows moved that **HB 323**, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 26, 2004, roll call on **HB 323** - Appendix.)

HB 323, as amended, was passed and the title agreed to.

Representative R. Adams moved that the vote by which **HB 323**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 380, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Edmonds moved the adoption of the Committee Substitute to **HB 380**. Agreed.

Representative Edmonds moved that **HB 380**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 26, 2004, roll call on **HB 380** - Appendix.)

HB 380, by way of Committee Substitute, was passed and the title agreed to.

Representative Edmonds moved that the vote by which **HB 380**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 107 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meeks moved that **HJR 107** be adopted.

On the roll call the vote was: **Yeas 96, Nays 0.** (See February 26, 2004, roll call on **HJR 107** - Appendix.)

HJR 107 was adopted.

Representative Meeks moved that the vote by which **HJR 107** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 116, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Coleman moved the adoption of Committee Amendment No. 1 to **HJR 116**. Agreed.

Representative Coleman moved that **HJR 116**, as amended, be adopted.

On the roll call the vote was: **Yeas 96, Nays 0.** (See February 26, 2004, roll call on **HJR 116** - Appendix.)

HJR 116, as amended, was adopted.

Representative Coleman moved that the vote by which **HJR 116**, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 139, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Vincent moved the adoption of Floor Amendment No. 1 to **HB 139**. Agreed.

Representative Vincent moved that **HB 139**, as amended, be passed.

On the roll call the vote was: **Yeas 91, Nays 0.** (See February 26, 2004, roll call on **HB 139** - Appendix.)

HB 139, as amended, was passed and the title agreed to.

Representative Vincent moved that the vote by which **HB 139**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 518, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved the adoption of the Committee Substitute to **HB 518**. Agreed.

Representative Callahan moved that **HB 518**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 1.** (See February 26, 2004, roll call on **HB 518** - Appendix.)

HB 518, by way of Committee Substitute, was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 518**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 471, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Thompson moved the adoption of the Committee Substitute to **HB 471**. Agreed.

Representative T. Thompson moved that **HB 471**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 91, Nays 0.** (See February 26, 2004, roll call on **HB 471** - Appendix.)

HB 471, by way of Committee Substitute, was passed and the title agreed to.

Representative T. Thompson moved that the vote by which **HB 471**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 549 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved that **HB 549** be passed.

On the roll call the vote was: **Yeas 95, Nays 0.** (See February 26, 2004, roll call on **HB 549** - Appendix.)

HB 549 was passed and the title agreed to.

Representative Cherry moved that the vote by which **HB 549** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 132 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved that **HB 132** be passed.

On the roll call the vote was: **Yeas 87, Nays 5.** (See February 26, 2004, roll call on **HB 132** - Appendix.)

HB 132 was passed and the title agreed to.

Representative Webb moved that the vote by which **HB 132** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins moved to waive the posting requirement on **HB 577**. Agreed.

Representative Jenkins moved the adoption of the following **HR 175**:

HR 175, A RESOLUTION recognizing March as Sexual Assault Awareness Month in Kentucky and honoring Kentucky's thirteen regional rape crisis centers.

WHEREAS, the American Medical Association reports that in the United States a woman is raped every 46 seconds and proclaims that sexual assault is a silent epidemic; and

WHEREAS, women, men, and children are all victims of sexual assault and it is estimated that 1 in 3 women, 1 in 4 girls, 1 in 6 boys, and 1 in 11 men will be a victim at least once in their lifetime; and

WHEREAS, a study conducted in 2003 reported that 1 in 9 adult women in Kentucky has been the victim of "forcible rape" sometime in her lifetime, and this excludes alcohol- or drug-facilitated rape, or statutory rape; and

WHEREAS, every Kentuckian is directly or indirectly affected and impacted by sexual violence; and

WHEREAS, emotional and physical scars resulting from sexual violence are often severe and long lasting; and

WHEREAS, a coalition of rape crisis centers, known as the Kentucky Association of Sexual Assault Programs, has emerged to directly confront rape and sexual assault with the cooperation of law enforcement agencies, churches, health care providers, and other helping professionals from Kentucky's diverse communities; and

WHEREAS, it is important to recognize the compassion and dedication of the individuals involved in these efforts, to applaud their commitment, and to increase public awareness of this significant problem; and

WHEREAS, it is important to recognize the strength, courage, and challenges faced by victims and survivors of sexual assault and their families and friends as they struggle to cope with the reality of sexual assault and to acknowledge that not all victims of sexual assault survive at the time of assault or survive the horrific long-term trauma that sexual assault often inflicts upon victims; and

WHEREAS, raising awareness about societal myths and behaviors that perpetuate rape and providing information and prevention strategies to all citizens is critical to the health and well-being of Kentucky's citizens;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives recognizes March as Sexual Assault Awareness Month in Kentucky and applauds Kentucky's thirteen regional rape crisis centers for their many years of dedicated efforts to assist victims and for their efforts to raise awareness of sexual assault.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Kentucky's rape crisis centers.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Ms. Eileen Recktenwald, Executive Director, Kentucky Association of Sexual Assault Programs, P.O. Box 4028, Frankfort, Kentucky, 40604.

There being no objection **HR 175** was adopted.

Representative Nesler moved the adoption of the following **Legislative Citation No. 56**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in loving memory and honor of Ulus Lee Johnson of Symsonia, Kentucky, and joins with Representative Fred Nesler in expressing deepest sympathy to the Johnson Family and all who share in the profound loss on the passing of this esteemed citizen. The son of the late Frank and Ida Tucker Johnson, he was preceded in death by eight brothers and grandsons, Brandon and Garrett. He is survived by his cherished wife of fifty-five years, Pauline Johnson; beloved children, Paulette, Gary, Rick and Jimmie; siblings, Daniel, Ruby and Deltrice; grandchildren, Susannah, Bethany, Candace and Quentin; and, a host of other family members, friends and loved ones. A retired pipefitter and lifetime member of Plumbers and Steamfitters Local 184 where he served as a two-time representative to the Plumbers and Steamfitters National Convention and for sixteen years on the Joint Apprentice Committee, this esteemed gentleman was a long-time superintendent with Pip Johnson Construction Company of Calvert City; an honorable World War II veteran of the United States Navy 75th Seabees in the Pacific Theater; a sixty-five year member of the Symsonia Masonic Lodge No. 917; a Kentucky Colonel; and a devout believer in the United Methodist faith. Additionally an active member of his community, Mr. Johnson served as the president of the Symsonia Development Council; was instrumental in the organization of the Symsonia Fire Department; the establishment of the Symsonia Medical Clinic; assisted in bringing water, sewer and natural gas services to the community; and hosted the annual Symsonia Community Christmas Tree Lighting ceremony for the last twenty-three years. Ulus Lee Johnson is remembered on this day for the many and generous contributions he made to his family and community and will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, Kentucky, this twenty-sixth day of February, in the year two thousand and four.

Legislative Citation No. 56 was adopted without objection.

Senate Message

Announcing passage: **SB 34, 177, SCR 93,** and **HCR 67**. (4:30 p.m.)

Motions, Petitions, and Communications (Continued)

Representative Couch moved to accept the Discharge Petition on **HJR 18**.

On the roll call to accept the Discharge Petition on **HJR 18**, the vote was: **Yeas 37, Nays 52**. (See February 26, 2004, roll call on **HB 132** - Appendix.)

The motion to accept the Discharge Petition on **HJR 18** was defeated.

Representative Wilkey moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Wilkey moved that he be recorded as voting "yea" on **HB 71** and **81**. Agreed.

Representative Bather moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Bather moved that he be recorded as voting "nay" on the motion to lay **HB 450** on the Clerk's Desk, **HR 209**, Floor Amendment No. 3 to **HB 450**, and the motion to accept the Discharge Petition on **SB 1**. Agreed.

Pursuant to House Rule 14, Representative Hoover moved to reconsider the vote by which **HB 95** was withdrawn.

The Speaker ruled that the motion to reconsider the vote by which **HB 95** was withdrawn was out of order.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 616, by Representative Damron: AN ACT relating to certification of peace officers and court security officers.

HB 617, by Representative Nelson: AN ACT relating to retirement.

HB 618, by Representative Graham: AN ACT relating to the National Guard Tuition Award Program.

HB 619, by Representatives A. Arnold, Crall, T. Thompson, and Siler: AN ACT relating to the preparation of maps for the annexation, transference, or severance of land by cities.

HB 620, by Representatives Buckingham and Brinkman: AN ACT relating to premises liability actions.

HB 621, by Representatives Jenkins, Brinkman, Wayne, and Bratcher: AN ACT relating to retirement.

HB 622, by Representative Higdon (Not filed for technical reasons)

HB 623, by Representatives Meade, P. Clark, Graham, Burch, and Barrows: AN ACT relating to health insurance.

HCR 202, by Representatives Hall, B. Smith, Couch, Cornett, Nelson, Stacy, A. Smith, Meade, Edmonds, and Stewart: A CONCURRENT RESOLUTION urging the U.S. Office of Surface Mining and the Kentucky Department for Natural Resources to advance the Reforestation Initiative, with the goal of planting and growing trees on uncompacted surface mine overburden.

HCR 203, by Representatives Bruce, Thomas, Pasley, Ballard, Bather, and Crimm: A CONCURRENT RESOLUTION requesting reauthorization of the Tobacco Task Force.

HCR 204, by Representatives Belcher and Barrows: A CONCURRENT RESOLUTION to encourage the documentation of rock fences worthy of preservation and the development of criteria for their protection and preservation.

HR 205, by Representatives Nesler, Gray, Cherry, Ballard, Yonts, Richards, and Adkins: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Ulus Lee Johnson.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and a Resolution have been posted for Committee consideration:

Local Government: **HB 66**

Licensing and Occupations: **HB 558, 559, 560, 597, 598**

Labor: **HB 523, 570, 572**

Health and Welfare: **HB 595**

Banking and Insurance: **HB 592**

Natural Resources and Environment: **HB 537, HCR 190**

Motions, Petitions, and Communications (Continued)

Pursuant to House Rule 48, Representative S. Lee filed a Discharge Petition on **HB 31** signed by Representatives Embry, Montell, Rader, Marcotte, Crimm, Draud, Fischer, Baugh, Harmon, Farmer, Siler, Upchurch, Couch, DeWeese, Crall, B. Smith, Ford, Cornett, Stewart, Reinhardt, Nunn, Mobley, Brinkman, Napier, Harper, Hoover, Comer, and Turner.

Pursuant to House Rule 48, Representative Kerr filed a Discharge Petition on **HB 223** signed by Representatives Hoover, Crimm, Montell, Rader, Marcotte, Draud, Fischer, Baugh, Embry, Harmon, Farmer, Couch, DeWeese, Upchurch, Vincent, Crall, S. Lee, B. Smith, Ford, Cornett, Stewart, Reinhardt, Nunn, Mobley, Brinkman, Harper, Comer, and Turner.

Report of Committees (Continued)

The Committee on Appropriations and Revenue reported **HB 395, HB 396, HB 397, HJR 103, HJR 104,** and **HJR 105** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 395, AN ACT relating to appropriations and revenue measures providing financing for the operations, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state-supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

(1) Funds Appropriations: There is appropriated out of the General Fund, Road Fund, Restricted Funds accounts, or Federal Funds accounts for the fiscal year beginning July 1, 2004, and ending June 30, 2005, and for the fiscal year beginning July 1, 2005, and ending June 30, 2006, the following discrete sums, or so much thereof as may be necessary. Appropriated funds are included pursuant to KRS 48.700 and 48.710. Each appropriation is made by source of respective fund or funds accounts. Appropriations for the following officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and budget units of the state government, and any and all other activities of the government of the Commonwealth, are subject to the provisions of Chapters 12, 42, 45, and 48 of the Kentucky Revised Statutes and compliance with the conditions and procedures set forth in this Act.

(2) **Tobacco Settlement Funds:** Appropriations identified as General Fund (Tobacco) in Part I, Operating Budget, are representative of the amounts provided in Part X, Phase I Tobacco Settlement, and are not to be appropriated in duplication.

(3) **Appropriations Less Than Budget Unit's Annual Allotments:** The fiscal year 2003-2004 regular appropriations made in House Bill 269 as enacted by the 2003 General Assembly are hereby reduced as part of a "Stability Initiative" whose objective was to save $100 million in order to level General Fund appropriation amounts between fiscal year 2003-2004 and fiscal year 2004-2005. These reductions approximate 2.5 percent of enacted General Fund appropriations and are set forth in detail by budget unit in the supporting documentation considered by the General Assembly, including Volume I of the Executive Budget recommendation and the Budget in Brief prepared by the Office of State Budget Director, and legislative records. The cabinet secretary or constitutional officer with authority over the budget unit shall have the discretion to apply or distribute the reduction, including personnel reductions, to programs, accounts, or activities within the budget unit. Notwithstanding KRS 48.700 and 48.705, $110,419,300 in the undesignated fiscal year 2003-2004 General Fund balance shall be carried forward and available for appropriation in fiscal year 2004-2005.

A. GENERAL GOVERNMENT

Budget Units

1. EXECUTIVE OFFICE OF THE GOVERNOR

a. Office of the Governor

	2004-05	2005-06
General Fund	5,950,800	7,385,700
Restricted Funds	1,311,100	-0-
TOTAL	7,261,900	7,385,700

b. Office of State Budget Director

	2004-05	2005-06
General Fund	2,285,500	4,323,800
Restricted Funds	1,842,000	-0-
TOTAL	4,127,500	4,323,800

c. State Planning Fund

	2004-05	2005-06
General Fund	500,000	500,000

TOTAL - EXECUTIVE OFFICE OF THE GOVERNOR

	2004-05	2005-06
General Fund	8,736,300	12,209,500
Restricted Funds	3,153,100	-0-
TOTAL	11,889,400	12,209,500

2. PERSONNEL

a. General Operations

	2004-05	2005-06
General Fund	3,203,600	6,765,600
Restricted Funds	12,373,600	12,956,900
TOTAL	15,577,200	19,722,500

(1) **Monthly Per Employee Health Insurance Benefits Assessment:** Notwithstanding KRS 18A.015(2), (3), and (4), the Department of Personnel shall collect a benefits assessment per month per employee eligible for health insurance coverage in the state group as contained in Appendix B of the budget instructions promulgated by the Legislative Research Commission and communicated to agencies by the Office of State Budget Director for duly authorized use by the Department of Personnel in administering its statutory and administrative responsibilities, including but not limited to administration of the Commonwealth's health insurance program.

(2) **Debt Service:** Included in the above General Fund appropriation is $3,562,000 in fiscal year 2005-2006 for debt service to support new bonds as set forth in Part II of this Act.

(3) **Flexible Benefit Account:** Notwithstanding KRS 18A.225(2)(g), any funds from the calendar year 2004 public employee health insurance program accruing to the Flexible Benefit Account, not otherwise appropriated in fiscal year 2005-2006, and in excess of the amount reflected in Part V of this Act shall be credited to the General Fund Surplus Account.

b. Kentucky Public Employees Deferred Compensation Authority

	2004-05	2005-06

Restricted Funds	5,133,200	5,648,600

c. **Workers' Compensation Benefits And Reserve**

	2004-05	**2005-06**
Restricted Funds	24,666,800	27,931,500

(1) **Appropriation Estimates:** The above appropriations represent estimates of the funds necessary to operate this program. If additional funds are required to adequately maintain this program, the necessary Restricted Funds are appropriated, subject to the conditions and procedures provided in this Act.

TOTAL - PERSONNEL

	2004-05	**2005-06**
General Fund	3,203,600	6,765,600
Restricted Funds	42,173,600	46,537,000
TOTAL	45,377,200	53,302,600

3. DEPARTMENT OF VETERANS' AFFAIRS

	2004-05	**2005-06**
General Fund	15,188,800	15,188,800
Restricted Funds	21,657,000	22,417,000
TOTAL	36,845,800	37,605,800

(1) **Weekend and Holiday Premium Pay Incentive:** The Kentucky Veterans' Centers are authorized to continue the weekend and holiday premium pay incentive component of the Personnel Pilot Program for the 2004-2006 fiscal biennium.

(2) **General Fund Operating Support:** Notwithstanding KRS 45.229, the unexpended balance of the General Fund appropriation provided to the Eastern Kentucky Veterans' Center, the Western Kentucky Veterans' Center, and the Thompson/Hood Veterans' Center in fiscal year 2003-2004 shall not lapse and shall be carried forward into fiscal year 2004-2005.

(3) **Congressional Medal of Honor Recipients - Travel and Per Diem:** The Commissioner of the Department of Veterans' Affairs may approve travel and per diem expenses incurred when Kentucky residents who have been awarded the Congressional Medal of Honor attend veterans, military, or memorial events in the Commonwealth of Kentucky.

4. GOVERNOR'S OFFICE OF AGRICULTURAL POLICY

	2004-05	**2005-06**
General Fund (Tobacco)	39,195,900	39,099,300
General Fund	-0-	1,796,000
Restricted Funds	520,600	515,600
TOTAL	39,716,500	41,410,900

(1) **Tobacco Settlement Funds - Allocations:** Notwithstanding KRS 248.711(2), and from the allocation provided therein, counties that are allocated in excess of $20,000 annually may provide up to four percent of the individual county allocation, not to exceed $15,000 annually, to the county council in that county for administrative costs.

(2) **New Economy Initiatives:** The Agricultural Development Board is encouraged to work with the Economic Development Cabinet to provide up to $5,000,000 each year of the biennium to fund the Natural Products Investment Fund.

(3) **Debt Service:** Included in the above General Fund appropriation is $1,796,000 in fiscal year 2005-2006 for new bonds as set forth in Part II of this Act.

5. KENTUCKY INFRASTRUCTURE AUTHORITY

	2004-05	**2005-06**
General Fund	-0-	6,296,000
Restricted Funds	3,726,500	3,714,200
Federal Funds	50,322,000	50,339,000
TOTAL	54,048,500	60,349,200

(1) **Federally Assisted Wastewater Revolving Loan Fund Program:** Included in the General Fund appropriation is $802,000 in fiscal year 2005-2006 for debt service to support $8,400,000 in bonds to match $42,000,000 in Federal Funds for the Federally Assisted Wastewater Revolving Loan Fund program (Fund A).

(2) **Safe Drinking Water State Revolving Loan Fund Program:** Included in the General Fund appropriation is $727,000 in fiscal year 2005-2006 for debt service to support $7,600,000 in bonds to match $38,000,000 in Federal Funds for the Safe Drinking Water State Revolving Loan Fund program (Fund F). The Federal Funds for this program are appropriated in the operating budget to comply with the Federal Cash Management Act. The required state matching funds are appropriated as bond funds in the capital budget.

(3) **Water and Sewer Resources Development Fund:** Included in the General Fund appropriation is $4,767,000 in fiscal year 2005-2006 for debt service to support an additional $50 million in state bonds for the Water and Sewer Resource Development Fund.

6. MILITARY AFFAIRS

	2003-04	2004-05	2005-06
General Fund	-0-	10,572,700	10,997,700
Restricted Funds	5,946,300	55,536,600	57,911,400
Federal Funds	-0-	59,327,000	61,870,500
TOTAL	5,946,300	125,436,300	130,779,600

(1) **Federal Defense Contract:** Included in the above Restricted Funds appropriation is $31,890,600 in fiscal year 2004-2005, and $32,195,100 in fiscal year 2005-2006 for expanded federal defense contract activity at Bluegrass Station and the Central Clothing Distribution Facility.

(2) **Debt Service:** Included in the above General Fund appropriation is $425,000 in fiscal year 2005-2006 for debt service to support new bonds as set forth in Part II of this Act.

(3) **Kentucky National Guard:** There is appropriated from the General Fund the necessary funds to be expended, subject to the conditions and procedures provided in this Act, which are required as a result of the Governor's call of the Kentucky National Guard to active duty when an emergency or exigent situation has been declared to exist by the Governor. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(4) **Disaster or Emergency Aid Funds:** There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures in this Act, which are required to match federal aid to which the state would be eligible in the event of a presidentially declared disaster or emergency. These necessary funds shall be made available from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

7. COMMISSION ON HUMAN RIGHTS

	2004-05	2005-06
General Fund	1,904,300	1,904,300
Restricted Funds	5,500	10,500
Federal Funds	212,900	212,900
TOTAL	2,122,700	2,127,700

8. COMMISSION ON WOMEN

	2004-05	2005-06
General Fund	263,200	263,200
Restricted Funds	22,800	13,000
TOTAL	286,000	276,200

9. LOCAL GOVERNMENT

	2004-05	2005-06
General Fund	10,308,200	10,308,200
Restricted Funds	1,072,000	639,600
Federal Funds	52,430,800	52,430,800
TOTAL	63,811,000	63,378,600

(1) **Flood Control Matching Fund Project Review:** The Department for Local Government shall transmit a copy of the application for a flood-related project to be funded from the flood control matching fund to the Environmental and Public Protection Cabinet with a request for a review of the project pursuant to KRS Chapter 151.

(2) **Cemetery Preservation:** In the 2004-2006 biennium, up to $500,000 in funds collected pursuant to KRS 48.005(5) shall be appropriated and transferred to the County Cemetery Fund. Notwithstanding KRS 48.005(5)(b), any amounts in excess of $500,000 shall be deposited in the General Fund Surplus Account. The Attorney General shall provide notice to the Governor's Office for Policy and Management and the Legislative Research Commission of the nature of any funds deposited in this account.

10. SPECIAL FUNDS

a. Local Government Economic Assistance Fund

	2004-05	2005-06
General Fund	32,451,700	32,157,200

b. Local Government Economic Development Fund

	2004-05	2005-06
General Fund	29,857,700	25,290,300

(1) **Coal Severance Tax Collections Calculations and Transfers:** The above appropriations from the General Fund are based on the official estimate presented by the Office of State Budget Director for coal severance tax collections during the biennium, distributed in accordance with KRS 42.450 to 42.495.

(2) **Trover Clinic Grant:** Notwithstanding KRS 42.4585, the quarterly calculation and transfer of the funds pursuant to KRS 42.4585 shall be made only after each quarterly installment of the annual appropriation of $1,000,000 in fiscal year 2004-2005 and $1,000,000 in fiscal year 2005-2006 has been credited to the Trover Clinic Grant within the Department for Local Government.

(3) **West Kentucky Corporation:** Notwithstanding KRS 42.4588, funds totaling $467,000 in fiscal year 2004-2005 and fiscal year 2005-2006 shall be transferred from the Local Government Economic Development Fund Multi-County Fund to the West Kentucky Corporation.

(4) **Department for Regional Development:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $770,500 in fiscal year 2004-2005 and $768,500 in fiscal year 2005-2006 is appropriated as General Funds to the Department for Regional Development within the Cabinet for Economic Development.

(5) **Kentucky Wood Products Competitiveness Corporation:** Notwithstanding KRS 42.4586, no funds shall be transferred to the Secondary Wood Products Development Fund.

(6) **Kentucky Workers' Compensation Funding Commission:** Notwithstanding KRS 342.122(1)(c), $19,000,000 from the General Fund shall not be credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission in fiscal year 2004-2005 and fiscal year 2005-2006.

(7) **High-Tech Construction/Investment Pools:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $3,625,000 in fiscal year 2004-2005 and $3,500,000 in fiscal year 2005-2006 is appropriated as General Funds to the Office for the New Economy. These funds will be allocated to the high-tech construction/investment pools created under KRS 154.12-278. Notwithstanding KRS 42.4588(4) and (5), these funds will be used for projects and programs recommended by the Office of the Commissioner for the New Economy in the Economic Development Cabinet. The projects identified are limited to research and development, commercialization, or work-related initiatives consistent with the character of the high-tech construction and high-tech investment pools administered by the Office for the New Economy. Investment and construction pool projects shall be targeted solely to Kentucky's Local Government Economic Development Fund eligible counties.

(8) **School Facilities Construction Commission:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 in fiscal year 2004-2005 shall be made only after funds totaling $3,235,500, and in fiscal year 2005-2006 shall be made only after funds totaling $4,617,900, is appropriated as General Funds to the School Facilities Construction Commission to provide debt service to support previously authorized bonds.

(9) **Kentucky Infrastructure Authority:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $1,906,800 in fiscal year 2005-2006 is appropriated as General Funds to the Kentucky Infrastructure Authority to provide General Fund debt service to support Bond Funds for the Water and Sewer Resources Development Fund for Coal Producing Counties - Phase II.

Notwithstanding KRS 42.4588, funds totaling $2,860,200 in fiscal year 2005-2006 shall be transferred to the General Fund from the Local Government Economic Development Fund Multi-County Fund to the General Fund to be used by the Kentucky Infrastructure Authority to provide General Fund debt service to support Bond Funds for the Water and Sewer Resources Development Fund for Coal Producing Counties.

(10) **Debt Service:** All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid regardless of whether there are sufficient moneys available to be transferred from coal severance tax supported funding program accounts to other accounts of the General Fund.

(11) **Tourism Marketing:** Notwithstanding KRS 42.4588, funds totaling $2,000,000 in fiscal year 2004-2005 shall be transferred from the Local Government Economic Development Fund Multi-County Fund to the Commerce Cabinet's Tourism Marketing program.

(12) **Governor's Early Reading Program:** Notwithstanding KRS 42.4588, funds totaling $2,000,000 in fiscal year 2004-2005 and $2,000,000 in fiscal year 2005-2006 shall be transferred from the Local Government Economic Development Fund Multi-County Fund to fund the Governor's Early Reading Program to the Department of Education.

(13) **Flood Matching Program:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to

coal-producing counties through the Local Government Economic Development Fund pursuant to KRS 42.4592 shall be made only after each quarterly installment of the annual appropriation of $1,500,000 in fiscal year 2004-2005 and fiscal year 2005-2006 is appropriated as General Funds to the Department of Local Government.

(14) Parks Renovation Pool: Notwithstanding KRS 42.4588, funds totaling $2,384,000 in fiscal year 2005-2006 shall be transferred to the General Fund from the Local Government Economic Development Fund Multi-County Fund to be used by the Commerce Cabinet to provide debt service to support Bond Funds for the Parks Renovation Pool.

c. Area Development Fund

	2004-05	2005-06
General Fund	809,700	809,700

(1) Appropriation Limit: Notwithstanding KRS 48.185, funds appropriated from the General Fund for the Area Development Fund shall be limited to these amounts.

TOTAL - SPECIAL FUNDS

	2004-05	2005-06
General Fund	63,119,100	58,257,200

11. EXECUTIVE BRANCH ETHICS COMMISSION

	2003-04	2004-05	2005-06
General Fund	25,000	351,500	351,500
Restricted Funds	-0-	2,400	2,400
TOTAL	25,000	353,900	353,900

12. SECRETARY OF STATE

	2004-05	2005-06
General Fund	2,224,000	2,224,000
Restricted Funds	802,900	802,900
TOTAL	3,026,900	3,026,900

(1) Uniform Commercial Code Branch: Notwithstanding KRS 14.140, the above Restricted Funds appropriations shall not lapse and shall be used for the continuation of current activities within the General Administration unit and for the operations and staff of the Uniform Commercial Code Branch.

13. BOARD OF ELECTIONS

	2003-04	2004-05	2005-06
General Fund	-0-	4,991,000	3,046,400
Restricted Funds	-0-	57,100	57,100
Federal Funds	1,669,800	9,000,000	1,000,000
TOTAL	1,669,800	14,048,100	4,103,500

(1) Help America Vote Act of 2002: Notwithstanding KRS 45.229, any General Funds unexpended by the State Board of Elections for the Help America Vote Act (HAVA) at the close of the fiscal year for which the funds were appropriated and otherwise made available shall not lapse but shall be carried forward into the following fiscal year, and shall be used solely for the purposes specified in Section 1 of the Help America Vote Act. Amounts in excess of those included in the General Fund continuing appropriation for this purpose, not to exceed $1,000,000, shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(2) Cost of Elections: Included in the above General Fund appropriation is $3,434,800 in fiscal year 2004-2005 and $1,479,500 in fiscal year 2005-2006 to pay the state's share of county election expenses (KRS 117.345) and the state's share of voter registration expenses (KRS 116.145, 116.112(7), and 117.343). Notwithstanding KRS 117.345(2), the maximum state payment rate is increased from the current statutory level of $255 to $300 per precinct per election to each precinct using voting machines. Any amount that the state is required to pay under the provisions of KRS 16.112(7); 116.145, 117.343, and 117.345 shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

14. REGISTRY OF ELECTION FINANCE

	2004-05	2005-06
General Fund	1,409,500	1,409,500
Restricted Funds	89,200	118,000
TOTAL	1,498,700	1,527,500

15. ATTORNEY GENERAL

	2004-05	2005-06
General Fund	13,026,200	13,026,200
Restricted Funds	7,298,000	7,448,800
Federal Funds	2,382,900	2,449,000
TOTAL	22,707,100	22,924,000

(1) **Deputy and Assistant Attorneys General Salaries:** Notwithstanding KRS 15.100, the Attorney General may set the salary for the Deputy Attorney General and the salary for the three Assistant Deputy Attorneys General at a rate less than that required in KRS 15.100.

(2) **Health Care Rate Intervention:** In addition to such funds as may be appropriated, the Office of the Attorney General may request from the Finance and Administration Cabinet, as a necessary government expense, such funds as may be necessary for expert witnesses pursuant to KRS 304.17A-095 and 367.150(8). Upon justification of the request, the Finance and Administration Cabinet shall approve up to $275,000 for the 2004-2006 fiscal biennium for this purpose to the Office of the Attorney General. The Department of Insurance shall provide the Office of the Attorney General any available information to assist in the preparation of a rate hearing pursuant to KRS 304.17A-095.

(3) **Annual and Sick Leave Service Credit:** Notwithstanding any statutory or regulatory restrictions to the contrary, any former employee of the Unified Prosecutorial System who has been appointed to a permanent full-time position under KRS Chapter 18A shall be credited annual and sick leave based on service credited under the Kentucky Retirement System solely for the purpose of computation of sick and annual leave. This provision shall only apply to any new appointment or current employee as of July 1, 1998.

(4) **Child Sexual Abuse Exams:** Notwithstanding KRS 186.1867, the Transportation Cabinet shall review the costs related to the distribution of child victims' license plates. Any revenue received from the sale or renewal of these plates in excess of actual costs shall be transferred to the Child Victims Trust Fund on an annual basis.

(5) **Legal Services Contracts:** The Office of the Attorney General may present proposals to state agencies specifying legal work that is presently accomplished through Personal Service Contracts that indicate the Office of the Attorney General's capacity to perform the work at a lesser cost. State agencies may agree to make arrangements with the Office of the Attorney General to perform the legal work and compensate the Office of the Attorney General for the legal services.

(6) **County Cemetery Fund:** In the 2004-2006 biennium, up to $500,000 in funds collected pursuant to KRS 48.005(5) shall be appropriated and transferred to the County Cemetery Fund. Notwithstanding KRS 48.005(5)(b), any amounts in excess of $500,000 shall be deposited in the General Fund Surplus Account. The Attorney General shall provide notice to the Governor's Office for Policy and Management and the Legislative Research Commission of the nature of any funds deposited in this account.

16. UNIFIED PROSECUTORIAL SYSTEM

(1) **Prosecutors Advisory Council Administrative Functions:** The Prosecutors Advisory Council shall approve compensation for employees of the Unified Prosecutorial System subject to the appropriation in this Act.

a. Commonwealth's Attorneys

	2004-05	2005-06
General Fund	27,842,100	28,138,300
Restricted Funds	203,900	204,500
Federal Funds	605,200	633,200
TOTAL	28,651,200	28,976,000

b. County Attorneys

	2004-05	2005-06
General Fund	22,979,900	23,514,100
Restricted Funds	4,800	4,800
Federal Funds	391,700	391,700
TOTAL	23,376,400	23,910,600

TOTAL - UNIFIED PROSECUTORIAL SYSTEM

	2004-05	2005-06
General Fund	50,822,000	51,652,400
Restricted Funds	208,700	209,300
Federal Funds	996,900	1,024,900
TOTAL	52,027,600	52,886,600

17. TREASURY

	2004-05	2005-06
General Fund	2,047,700	2,067,300
Restricted Funds	778,600	793,300
Road Fund	250,000	250,000
TOTAL	3,076,300	3,110,600

(1) **Unclaimed Property Fund:** Included in the Restricted Funds appropriation above is a recurring transfer from the Unclaimed Property Fund. In each respective fiscal year of the 2004-2006 fiscal biennium, $778,600 and $793,300 is appropriated to provide funding for services performed by the Unclaimed Property Division of the Department of the Treasury.

18. AGRICULTURE

	2004-05	2005-06
General Fund	18,876,500	18,876,500
Restricted Funds	4,855,200	3,305,200
Federal Funds	4,162,000	4,162,000
TOTAL	27,893,700	26,343,700

(1) **Breathitt Veterinary Center and Diagnostic Laboratories:** Included in the above General Fund appropriation is $478,500 in fiscal year 2004-2005 and $478,500 in fiscal year 2005-2006 for the Breathitt Veterinary Center at Murray State University and $370,000 in fiscal year 2004-2005 and $370,000 in fiscal year 2005-2006 for the University of Kentucky for the diagnostic laboratories.

(2) **Mexico Joint Trade Office:** Included in the above General Fund appropriation is $100,000 in each fiscal year for the Agriculture/Economic Development joint trade office in Mexico.

(3) **Enforcement of Tobacco Product Sale Restrictions:** Included in the above General Fund appropriation is $260,000 in fiscal year 2004-2005 and $260,000 in fiscal year 2005-2006 to carry out the provisions of KRS 438.335.

(4) **Purchase of Agricultural Conservation Easement (PACE) Program:** The PACE board may contract directly with land surveyors, real estate appraisers, and other licensed professionals as necessary.

(5) **Operations of the Department:** Notwithstanding KRS 217B.580, 248.290(2), 251.430, 260.650, 363.330, 363.906, and 438.335, funds may be expended in support of the operations of the Department.

19. AUDITOR OF PUBLIC ACCOUNTS

	2004-05	2005-06
General Fund	5,780,800	5,530,800
Restricted Funds	3,096,500	3,306,000
TOTAL	8,877,300	8,836,800

(1) **Auditor's Scholarships:** Notwithstanding KRS 43.200, no funding is provided for Auditor's scholarships.

(2) **Audit Services Contracts:** No state agency shall enter into any contract with a nongovernmental entity for an audit unless the Auditor of Public Accounts has declined in writing to perform the audit or has failed to respond within 30 days of receipt of a written request. The agency requesting the audit shall furnish the Auditor of Public Accounts a comprehensive statement of the scope and nature of the proposed audit.

(3) **Audit Records and Status Reports:** The Auditor of Public Accounts shall report in writing each 60 days to the Interim Joint Committee on Appropriations and Revenue the progress of all state audits, together with copies of all completed audits. The Auditor of Public Accounts shall maintain a record of all time and expenses for each audit or investigation.

(4) **Charges for Federal, State, and Local Audits:** Any additional expense incurred by the Auditor of Public Accounts for auditing Federal Funds, when the audits are mandated by a cognizant federal audit agency, shall be charged to the audited agency when the costs may be charged against Federal Funds. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operation of the office. The Auditor of Public Accounts shall maintain a record of all costs and expenditures associated with this provision.

Each quarter, the Auditor of Public Accounts shall notify the Finance and Administration Cabinet concerning the collection status of the fees charged for county audits. If a county government is delinquent in its payment to the Auditor of Public Accounts, the Finance and Administration Cabinet shall withhold any moneys due that county government for the term of 120 days or until the Auditor of Public Accounts has received full payment from the county. The Auditor of Public Accounts is authorized to increase the audit fees for conducting county audits if additional revenues are needed to continue the operations of the office.

The "Single Audit Act of 1984" and the "Single Audit Act Amendments of 1996" (OMB Circular No. A-133) have changed the method by which federal moneys to state agencies are audited. As a result of this federal change, the Auditor of Public Accounts is budgeted to receive additional Agency Receipts which shall be allotted by the Governor's Office for Policy and Management for programs authorized in the enacted budget for the Auditor of Public Accounts by the 2004 General Assembly, subject to the conditions and procedures provided in this Act.

Any expenses incurred by the Auditor of Public Accounts for auditing a state or local government agency or other entity upon its request, or for performing an audit required by statute unless the audit is required by those standards governing the audit of the Commonwealth's Comprehensive Financial Report or the provisions contained in the "Single Audit Act of 1984" and the "Single Audit Act Amendments of 1996," shall be charged to the agency or entity audited.

Any expense incurred by the Auditor of Public Accounts for auditing individual governmental entities shall be charged to the agency receiving audit services when expenses are mutually agreed upon or when a legislatively mandated study by the Auditor of Public Accounts has determined the need for the audit.

20. PERSONNEL BOARD

	2004-05	2005-06
General Fund	543,500	543,500

21. KENTUCKY RETIREMENT SYSTEMS

	2004-05	2005-06
Restricted Funds	15,921,900	16,194,400

22. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

a. Accountancy

	2004-05	2005-06
Restricted Funds	571,200	604,000

b. Certification of Alcohol and Drug Counselors

	2004-05	2005-06
Restricted Funds	65,200	67,200

c. Architects

	2004-05	2005-06
Restricted Funds	262,500	265,000

d. Certification for Professional Art Therapists

	2004-05	2005-06
Restricted Funds	11,400	11,400

e. Auctioneers

	2004-05	2005-06
Restricted Funds	398,800	397,300

f. Barbering

	2004-05	2005-06
Restricted Funds	230,300	236,600

g. Chiropractic Examiners

	2004-05	2005-06
Restricted Funds	194,400	200,500

h. Dentistry

	2004-05	2005-06
Restricted Funds	613,800	618,200

i. Licensure and Certification for Dietitians and Nutritionists

	2004-05	2005-06
Restricted Funds	74,500	77,500

j. Embalmers and Funeral Directors

	2004-05	2005-06
Restricted Funds	249,100	249,100

k. Licensure for Professional Engineers and Land Surveyors

	2004-05	2005-06
Restricted Funds	1,363,600	1,379,400

l. Certification of Fee-Based Pastoral Counselors

	2004-05	2005-06

Restricted Funds	7,500	7,500

m. Registration for Professional Geologists

	2004-05	2005-06
Restricted Funds	135,000	135,000

n. Hairdressers and Cosmetologists

	2004-05	2005-06
Restricted Funds	673,800	713,500

o. Specialists in Hearing Instruments

	2004-05	2005-06
Restricted Funds	51,500	55,200

p. Interpreters for the Deaf and Hard of Hearing

	2004-05	2005-06
Restricted Funds	31,000	31,000

q. Examiners and Registration of Landscape Architects

	2004-05	2005-06
Restricted Funds	58,500	58,600

r. Licensure of Marriage and Family Therapists

	2004-05	2005-06
Restricted Funds	83,200	83,200

s. Medical Licensure

	2004-05	2005-06
Restricted Funds	2,110,900	2,119,900

t. Nursing

	2004-05	2005-06
Restricted Funds	4,705,300	4,674,200

u. Licensure for Nursing Home Administrators

	2004-05	2005-06
Restricted Funds	76,200	76,200

v. Licensure for Occupational Therapy

	2004-05	2005-06
Restricted Funds	86,000	86,000

w. Ophthalmic Dispensers

	2004-05	2005-06
Restricted Funds	62,900	62,900

x. Optometric Examiners

	2004-05	2005-06
Restricted Funds	159,700	164,100

y. Pharmacy

	2004-05	2005-06
Restricted Funds	883,200	896,700

z. Physical Therapy

	2004-05	2005-06
Restricted Funds	263,100	264,700

aa. Podiatry

	2004-05	2005-06
Restricted Funds	21,100	21,700

ab. Private Investigators

	2004-05	2005-06

Restricted Funds	63,500	64,200

ac. Licensed Professional Counselors

	2004-05	2005-06
Restricted Funds	53,700	56,200

ad. Proprietary Education

	2004-05	2005-06
Restricted Funds	144,300	149,300

ae. Examiners of Psychology

	2004-05	2005-06
Restricted Funds	176,100	176,100

af. Real Estate Appraisers Board

	2004-05	2005-06
Restricted Funds	578,400	589,000

ag. Real Estate Commission

	2004-05	2005-06
Restricted Funds	2,251,100	2,179,400

ah. Respiratory Care

	2004-05	2005-06
Restricted Funds	132,700	139,600

ai. Social Work

	2004-05	2005-06
Restricted Funds	145,300	145,300

aj. Speech-Language Pathology and Audiology

	2004-05	2005-06
Restricted Funds	89,000	92,000

ak. Veterinary Examiners

	2004-05	2005-06
Restricted Funds	237,800	237,800

TOTAL - OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

	2004-05	2005-06
Restricted Funds	17,315,600	17,385,500

23. EMERGENCY MEDICAL SERVICES

	2003-04	2004-05	2005-06
General Fund	-0-	2,391,600	2,391,600
Restricted Funds	23,900	171,700	171,700
Federal Fund	313,200	436,500	436,500
TOTAL	337,100	2,999,800	2,999,800

24. GOVERNMENTAL SERVICES CENTER

	2004-05	2005-06
Restricted Funds	1,467,200	1,494,000

25. KENTUCKY RIVER AUTHORITY

	2004-05	2005-06
General Fund	369,500	369,500
Restricted Funds	5,372,800	1,582,200
TOTAL	5,742,300	1,951,700

(1) **Kentucky River Water Storage Enhancement Project:** Included in the fiscal year 2005-2006 Restricted Funds appropriation is $174,000 for debt service to support $1,773,000 in new agency bonds as set forth in Part II of this Act.

(2) **Water Withdrawal Fees:** The water withdrawal fees imposed by the Kentucky River Authority shall not be subject to state and local taxes. Notwithstanding that portion of the provision of KRS 151.710(10) that directs the Finance and

Administration Cabinet to provide administrative services for the Kentucky River Authority, Tier I water withdrawal fees shall be used to support the operations of the Authority and for contractual services for water supply and quality studies.

26. MISCELLANEOUS APPROPRIATIONS

(1) **Funding Sources for Miscellaneous Appropriations:** Funds required to pay the costs of items included within the Miscellaneous Appropriations category are appropriated, and any required expenditure over the above amounts is to be paid first from the General Fund Surplus Account (KRS 48.700) if available or from any available balance in either the Judgments budget unit appropriation or the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in this Act.

a. Judgments

	2004-05	2005-06
General Fund	-0-	10,877,100

(1) **Payment of Judgments and Lapse of Funds:** The above appropriation is for the payment of judgments as may be rendered against the Commonwealth by courts and orders of the State Personnel Board and, where applicable, shall be subject to the provisions of KRS Chapter 45, and for the payment of medical malpractice judgments against the University of Kentucky and the University of Louisville in accordance with KRS 164.892 and 164.941. Notwithstanding KRS 45.229, any remaining appropriation in the Judgments account at the end of fiscal year 2003-2004 or fiscal year 2004-2005 shall not lapse but shall be carried forward into fiscal years 2004-2005 and 2005-2006, respectively.

b. Attorney General Expense

	2004-05	2005-06
General Fund	225,000	225,000

c. Board of Claims Awards

	2004-05	2005-06
General Fund	1,000,000	1,000,000

(1) **Repayment of Awards or Judgments:** Funds are appropriated from the General Fund for the repayment of awards or judgments made by the Board of Claims against departments, boards, commissions, and other agencies maintained by appropriations out of the General Fund. However, awards under $2,500 shall be paid from funds available for the operations of the agency.

d. Guardian Ad Litem

	2004-05	2005-06
General Fund	5,700,000	5,700,000

(1) **Fees:** Included in the above appropriation is funding for fees to be paid to each guardian ad litem appointed by the court pursuant to KRS 311.732. The fee shall be fixed by the court and shall not exceed $500.

e. Prior Year Claims

	2004-05	2005-06
General Fund	400,000	400,000

f. Unredeemed Checks Refunded

	2004-05	2005-06
General Fund	2,300,000	2,300,000

(1) **Reissuance of Uncashed Checks:** Checks written by the State Treasurer and not cashed within the statutory period may be presented to the State Treasurer for reissuance in accordance with KRS 41.370.

g. Involuntary Commitments to an Intermediate Care Facility for the Mentally Retarded (ICF/MR)

	2004-05	2005-06
General Fund	60,000	60,000

h. Payments to Frankfort in Lieu of Taxes

	2004-05	2005-06
General Fund	195,000	195,000

i. Police Officers and Firefighters - Life Insurance

	2004-05	2005-06
General Fund	250,000	250,000

(1) **Payment of Benefits:** Funds are appropriated for payment of benefits for state and local police officers and firefighters in accordance with KRS 61.315 and 95A.070.

j. Master Commissioners - Employers Retirement

	2004-05	2005-06
General Fund	200,000	200,000

k. **Master Commissioners - Social Security**

	2004-05	2005-06
General Fund	365,000	365,000

l. **Medical Malpractice Liability Insurance Reimbursements**

	2004-05	2005-06
General Fund	185,000	185,000

m. **Blanket Employee Bonds**

	2004-05	2005-06
General Fund	100,000	100,000

TOTAL - MISCELLANEOUS APPROPRIATIONS

	2004-05	2005-06
General Fund	10,980,000	21,857,100

TOTAL - GENERAL GOVERNMENT

	2003-04	2004-05	2005-06
General Fund (Tobacco)	-0-	39,195,900	39,099,300
General Fund	25,000	227,110,000	247,332,800
Restricted Funds	5,970,200	185,305,500	184,629,100
Federal Funds	1,983,000	179,271,000	173,925,600
Road Fund	-0-	250,000	250,000
TOTAL	7,978,200	631,132,400	645,236,800

B. COMMERCE CABINET

Budget Units

1. **SECRETARY**

	2004-05	2005-06
General Fund	1,741,400	1,741,400

(1) **Kentucky Coal Council and Office of Coal Marketing and Export:** Notwithstanding KRS 132.020(9), funds are not provided to the Kentucky Coal Council and the Office of Coal Marketing and Export from the property tax on unmined coal.

2. **ARTISANS CENTER**

	2004-05	2005-06
General Fund	273,800	273,800
Restricted Funds	1,297,600	1,297,600
TOTAL	1,571,400	1,571,400

3. **BREAKS INTERSTATE PARK**

	2004-05	2005-06
General Fund	191,100	191,100

4. **TRAVEL**

	2004-05	2005-06
General Fund	6,329,400	6,329,400
Restricted Funds	2,000,000	-0-
TOTAL	8,329,400	6,329,400

(1) **Tourism Marketing and Development:** Included in the above Restricted Fund appropriation is $2,000,000 in fiscal year 2004-2005 for Tourism Marketing and Development on behalf of the coal producing counties from the Local Government Economic Development Fund Multi-County Fund.

5. **PARKS**

	2004-05	2005-06
General Fund	28,613,100	31,950,100
Restricted Funds	55,428,300	58,506,800

TOTAL	84,041,400	90,456,900

(1) Park Capital Maintenance and Renovation Fund: Notwithstanding KRS 148.800, 148.805, and 148.810 or any other statute or provision of law to the contrary, the General Assembly authorizes the use of the Park Capital Maintenance and Renovation Fund for any ongoing cost of the Department of Parks.

(2) Debt Service: Included in the above General Fund appropriation is $3,337,000 in fiscal year 2005-2006 for debt service for new bonds as set forth in Part II of this Act.

6. HORSE PARK COMMISSION

	2003-04	2004-05	2005-06
General Fund	550,000	1,621,200	1,621,200
Restricted Funds	-0-	5,522,800	5,529,000
TOTAL	550,000	7,144,000	7,150,200

7. STATE FAIR BOARD

	2004-05	2005-06
General Fund	396,800	396,800
Restricted Funds	35,003,200	36,170,500
TOTAL	35,400,000	36,567,300

(1) Debt Service: Included in the above Restricted Funds appropriation is $4,012,300 in fiscal year 2004-2005 and $4,012,900 in fiscal year 2005-2006 for previously issued bonds.

8. FISH AND WILDLIFE RESOURCES

	2004-05	2005-06
Restricted Funds	27,941,700	27,941,700
Federal Funds	10,830,000	10,864,000
TOTAL	38,771,700	38,805,700

9. HISTORICAL SOCIETY

	2004-05	2005-06
General Fund	5,871,800	5,871,800
Restricted Funds	633,800	727,300
Federal Funds	342,000	325,000
TOTAL	6,847,600	6,924,100

10. ARTS COUNCIL

	2004-05	2005-06
General Fund	4,210,900	4,210,900
Restricted Funds	755,500	553,500
Federal Funds	691,000	685,500
TOTAL	5,657,400	5,449,900

(1) Open Meetings: Any entity involved in producing or financing arts on a local or statewide basis, which receives funds from the Kentucky Arts Council or from grants from local governmental authorities, shall be required to conduct its business as a public agency pursuant to KRS 61.800 to 61.850 and KRS 61.870 to 61.884.

11. HERITAGE COUNCIL

	2004-05	2005-06
General Fund	888,800	888,800
Restricted Funds	366,500	368,600
Federal Funds	587,800	587,800
TOTAL	1,843,100	1,845,200

12. KENTUCKY CENTER FOR THE ARTS

	2004-05	2005-06
General Fund	588,600	-0-

(1) Operating Budget: No operating support is provided in fiscal year 2004-2005 nor fiscal year 2005-2006. Funds in fiscal year 2004-2005 are being redirected to provide for capital maintenance and repair projects at the Center.

TOTAL -COMMERCE CABINET

	2003-04	2004-05	2005-06
General Fund	550,000	50,726,900	53,475,300
Restricted Funds	-0-	128,949,400	131,095,000
Federal Funds	-0-	12,450,800	12,462,300
TOTAL	550,000	192,127,100	197,032,600

C. ECONOMIC DEVELOPMENT CABINET

Budget Units

1. SECRETARY

	2003-04	2004-05	2005-06
General Fund	-0-	8,998,500	9,548,400
Restricted Funds	1,342,300	2,899,600	1,237,800
TOTAL	1,342,300	11,898,100	10,786,200

(1) **East Kentucky Jobs Creation Corporation, West Kentucky Jobs Creation Corporation, and Regional Development Office:** Included in the above Restricted Funds appropriation is $467,000 in fiscal year 2004-2005 and $467,000 in fiscal year 2005-2006 for the West Kentucky Jobs Creation Corporation. Also included in the above General Fund appropriation is $755,400 in fiscal year 2004-2005 and $768,500 in fiscal year 2005-2006 for the Department for Regional Development. Notwithstanding KRS 42.4592, the General Fund appropriations for the Department for Regional Development shall be funded from the Local Government Economic Development Fund prior to any other statutory distribution from the Local Government Economic Development Fund.

(2) **Kentucky Technology Service Grant:** Included in the above Restricted Funds appropriation is $300,000 in fiscal year 2004-2005 and $150,000 in fiscal year 2005-2006 for the Kentucky Technology Service Grant administered by the Kentucky Manufacturing Assistance Center. Included in the above General Fund appropriation is $150,000 in fiscal year 2005-2006 for the Kentucky Technology Service Grant.

(3) **Louisville Waterfront Development Corporation:** Included in the above Restricted Funds appropriation is $420,800 in fiscal year 2004-2005 and $420,800 in fiscal year 2005-2006 for the Louisville Waterfront Development Corporation.

(4) **Office of the Commissioner of the New Economy:** Included in the above Restricted Funds appropriation is $1,511,800 in fiscal year 2004-2005 for the Office of the Commissioner for the New Economy. Also included in the above General Fund appropriation is $3,367,600 in fiscal year 2004-2005 and $3,879,400 in fiscal year 2005-2006. A portion of these funds will be used for the Innovation and Commercialization Centers grant of $1,400,000 in each year of the biennium administered by the Kentucky Science and Technology Corporation.

(5) **New Economy High-Tech Construction and High-Tech Investment Pools:** Included in the above General Fund appropriation is $3,625,000 in fiscal year 2004-2005 and $3,500,000 in fiscal year 2005-2006 for the New Economy High-Tech Construction and High-Tech Investment Pools. Notwithstanding KRS 42.4592, the General Fund appropriation for the Office of the New Economy shall be funded from the Local Government Economic Development Fund prior to any statutory distribution from the Local Government Economic Development Fund. The Commissioner of the Office of the New Economy shall determine the amounts to be apportioned between the High-Tech Investment and High-Tech Construction Pools.

(6) **Funding for the New Economy:** Notwithstanding Subtitle 20 of KRS Chapter 154, interest income earned on balances in the High-Technology Construction Pool and the High-Technology Investment Pool shall be used to support the Office of the New Economy within the Department of Economic Development. Upon the recommendation of the Commissioner, these funds are authorized and appropriated to fund High-Technology Construction/Investment Pool projects. Loan repayments received by the High-Technology Construction and High-Technology Investment Pools are appropriated in addition to amounts specified in Part II, Capital Projects Budget, of this Act.

(7) **Kentucky Science and Technology Corporation:** Notwithstanding KRS 164.6017, the Kentucky Science and Technology Corporation shall submit an annual plan dealing with the allocation of funds from the Science and Technology Funding Program, excluding funds for the Knowledge-Based Economy Academic Programs, for review and approval by the Council on Postsecondary Education and the Office of the New Economy prior to the Council on Postsecondary Education executing a contract with the Corporation to administer Science and Technology Funding Programs.

2. ADMINISTRATION AND SUPPORT

	2004-05	2005-06
General Fund	1,944,700	1,944,700
Restricted Funds	-0-	9,600
TOTAL	1,944,700	1,954,300

3. BUSINESS DEVELOPMENT

	2003-04	2004-05	2005-06
General Fund	-0-	2,093,600	2,093,600

Restricted Funds	110,000	366,800	580,000
TOTAL	110,000	2,460,400	2,673,600

4. **FINANCIAL INCENTIVES**

	2004-05	2005-06
General Fund	3,327,600	4,759,600
Restricted Funds	2,240,300	2,266,700
TOTAL	5,567,900	7,026,300

(1) **Debt Service:** Included in the above General Fund appropriation is $1,432,000 in fiscal year 2005-2006 for debt service to support new bonds as set forth in Part II of this Act.

(2) **Bluegrass State Skills Corporation:** Notwithstanding KRS 45.229, the General Fund appropriation for fiscal year 2004-2005 and for fiscal year 2005-2006 for the Bluegrass State Skills Corporation shall be continued and not lapse to the General Fund Surplus Account. The Corporation is authorized to extend an additional $1,500,000 in training grant offers during the 2004-2006 biennium. In the event that such offers are made, and that disbursements are required to support those offers, funds shall be provided from the General Fund Surplus Account in an amount not to exceed $1,500,000.

(3) **Lapse of Special Revenue Fund Accounts:** Balances remaining in the Special Revenue Fund accounts after all appropriations authorized in this bill are funded shall lapse to the Deferred Maintenance Account at the end of each fiscal year.

(4) **Kentucky Investment Fund Act Tax Credits:** The total amount of Kentucky Investment Fund Act (KIFA) tax credits available to any single investment fund shall not exceed, in aggregate, $1,300,000 for all investors and all taxable years. The total KIFA tax credits available for all investors in all investment funds shall not exceed $5,000,000 per fiscal year.

5. **COMMUNITY DEVELOPMENT**

	2004-05	2005-06
General Fund	2,652,300	2,652,300
Restricted Funds	438,600	440,600
Federal Funds	155,400	155,400
TOTAL	3,246,300	3,248,300

TOTAL - ECONOMIC DEVELOPMENT CABINET

	2003-04	2004-05	2005-06
General Fund	-0-	19,016,700	20,998,600
Restricted Funds	1,452,300	5,945,300	4,534,700
Federal Funds	-0-	155,400	155,400
TOTAL	1,452,300	25,117,400	25,688,700

D. DEPARTMENT OF EDUCATION

Budget Units

1. **EXECUTIVE POLICY AND MANAGEMENT**

	2004-05	2005-06
General Fund	687,900	687,900

(1) **Employment of Personnel:** Notwithstanding KRS 18A.115, the Department of Education may fill, through memoranda of agreement, not more than 50 percent of its existing authorized positions below the division director level with individuals employed as school administrators and educators in Kentucky.

(2) **Employment of Leadership Personnel:** Notwithstanding KRS 18A.005 to 18A.200, the Kentucky Board of Education shall continue to have sole authority to determine the employees of the Department of Education who are exempt from the classified service and to set their compensation comparable to the competitive market.

(3) **Medicaid Reimbursement Funds:** The Department of Education is authorized to implement a strategy, in conjunction with local school districts and the Department for Medicaid Services within the Cabinet for Health Services, to maximize federal reimbursement under the Medicaid Program for Medicaid eligible administrative functions performed by elementary and secondary school faculty, staff, and administrators. Any increase in federal reimbursement attributable to such a strategy shall not be expended by the Department of Education or Cabinet for Health Services, Department for Medicaid Services, prior to review and approval by the Governor's Office of Policy and Management and submission to the Interim Joint Committee on Appropriations and Revenue at least 60 days prior to any distribution of Federal Funds.

2. **OPERATIONS AND SUPPORT SERVICES**

	2004-05	2005-06
General Fund	10,288,600	10,673,400

Restricted Funds	2,886,400	2,354,400
Federal Funds	27,800	27,800
TOTAL	13,202,800	13,055,600

(1) **Teachers' Retirement System Employer Match:** Included in the above General Fund appropriation is $2,531,700 in fiscal year 2004-2005 and $2,607,800 in fiscal year 2005-2006 to enable the Department of Education to provide the employer match for the teacher retirement contribution for qualified employees as provided by KRS 161.550.

(2) **Debt Service:** Included in the above General Fund appropriation in fiscal year 2005-2006 is $336,000 to provide for debt service for new bonds as set forth in Part II of this Act.

3. LEARNING AND RESULTS SERVICES

	2004-05	**2005-06**
General Fund (Tobacco)	1,888,400	1,888,400
General Fund	564,768,000	577,600,700
Restricted Funds	1,896,400	1,801,200
Federal Funds	525,064,200	525,223,100
TOTAL	1,093,617,000	1,106,513,400

(1) **Education Technology Escrow Account:** Included in the above General Fund appropriation is $15,000,000 in fiscal year 2004-2005 and $15,000,000 in fiscal year 2005-2006 for the education technology escrow account.

(2) **Education of State Agency Children:** Included in the above General Fund appropriation is $9,415,800 in fiscal year 2004-2005 and $9,415,800 in fiscal year 2005-2006 for reimbursement to local school districts for the education of state agency children as defined by KRS 158.135.

(3) **Funding for Employer Health and Life Insurance:** Included in the above General Fund appropriation is $322,887,100 in fiscal year 2004-2005 and $338,025,500 in fiscal year 2005-2006 to provide health insurance and life insurance coverage for employees of local school districts. Notwithstanding KRS 45.229, $6,422,700 in General Funds appropriated in fiscal year 2004-2005 for local school district health insurance costs shall not lapse and shall carry forward into fiscal year 2005-2006 for expenditure on local school district health insurance costs.

If the costs for health insurance or life insurance coverage for employees of local school districts exceed the levels of appropriated funds, any unexpended Support Education Excellence in Kentucky appropriations may be used to offset the unbudgeted costs. Any transfer shall be subject to approval of the Governor upon the written recommendation of the Secretary of the Finance and Administration Cabinet pursuant to the written request of the Commissioner of Education. The per month per employee administrative assessment as contained in Appendix B of the budget instructions as promulgated by the Legislative Research Commission and communicated to agencies by the Office of State Budget Director shall be remitted to the Department of Personnel by the Department of Education from the General Fund appropriation for local school district health and life insurance.

(4) **Kentucky School for the Blind and Kentucky School for the Deaf:** Included in the above General Fund appropriation is $5,718,700 in fiscal year 2004-2005 and $5,718,700 in fiscal year 2005-2006 for the Kentucky School for the Blind, and $8,261,500 in fiscal year 2004-2005 and $8,261,500 in fiscal year 2005-2006 for the Kentucky School for the Deaf.

(5) **Kentucky Education Technology System:**

(a) Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650, 157.655, 157.660, and 157.665, the School Facilities Construction Commission, in consultation with the Kentucky Board of Education and the Department of Education, shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds.

(b) The School for the Deaf and the School for the Blind shall be fully eligible, along with local school districts, to participate in the Kentucky Education Technology System in a manner that takes into account the special needs of the students of these two schools.

(6) **Family Resource and Youth Services Centers:** Funds appropriated to establish and support Family Resource and Youth Services Centers shall be transferred in fiscal year 2004-2005 and in fiscal year 2005-2006 to the Health and Family Services Cabinet consistent with the intent of KRS 156.497. The Health and Family Services Cabinet is authorized to use, for administrative purposes, no more than three percent of the total funds transferred from the Department of Education for the Family Resource and Youth Services Centers. If a certified person is employed as a director or coordinator of a Family Resource or Youth Services Center, that person shall retain his or her status as a certified employee of the school district.

If 70 percent or more of the funding level provided by the state is utilized to support the salary of the director of a center, that center shall provide a report to the Health and Family Services Cabinet identifying the salary of the director. The Health and Family Services Cabinet shall transmit any reports received from Family Resource and Youth Services Centers pursuant to this provision to the Legislative Research Commission.

(7) **Area Centers and Vocational Departments Funding Formula:** All funds appropriated in the budget for

supplementing the programs and operations of the area centers and vocational departments of the following districts shall be distributed by a weighted formula that is promulgated in an administrative regulation by the Kentucky Board of Education: Allen County, Ballard County, Bowling Green Independent, Boyd County, Carter County, Christian County, Covington Independent, Edmonson County, Fayette County, Fleming County, Franklin County, Grayson County, Henderson County, Lawrence County, Lewis County, Livingston County, Magoffin County, Marshall County, McCreary County, Newport Independent, Powell County, Simpson County, Trigg County, Union County, and Jefferson County. The weighted formula shall take into consideration the different costs of programs based on requirements for facilities, materials, and equipment to meet program standards, the number of students enrolled, and the number of hours students are enrolled.

(8) **Program Flexibility:** Notwithstanding KRS 157.226(2) and (3), 157.3175(3) and (4), and 160.345(8) with regards to the state allocation, five programs (Professional Development, Extended School Services, Preschool, Textbooks, and Safe Schools) shall continue to permit the state and local school districts additional flexibility in the distribution of program funds while still addressing the governing statutes and serving the need and the intended student population.

(9) **Local District Grant Fund Carry Forward:** Notwithstanding KRS 45.229, up to ten percent of any non-SEEK state grant fund appropriated to the Department of Education and disbursed to a local district that is unexpended during fiscal year 2004-2005 may be carried forward to fiscal year 2005-2006.

(10) **Highly Skilled Educators:** Notwithstanding KRS 158.6455(3)(d), 158.782, and 160.350(3), the Kentucky Department of Education shall have the authority to expend moneys appropriated for the Highly Skilled Education Assistance Program on intervention services that may be required by the Federal No Child Left Behind Act of 2001 (Pub. L. 107-110).

(11) **Commonwealth School Improvement Fund:** Notwithstanding KRS 158.805, the Commissioner of Education shall be authorized to use the Commonwealth School Improvement Fund to provide support services to schools needing assistance under KRS 158.6455 or in order to meet the requirements of No Child Left Behind.

4. SUPPORT EDUCATION EXCELLENCE IN KENTUCKY (SEEK) PROGRAM

	2004-05	2005-06
General Fund	2,379,656,200	2,460,722,900

(1) **Common School Fund Earnings:** Accumulated earnings for the Common School Fund shall be transferred in each fiscal year to the SEEK Program.

(2) **Base SEEK Allotments:** The above appropriations include $1,861,706,800 in fiscal year 2004-2005 and $1,847,794,600 in fiscal year 2005-2006 for the base SEEK Program as defined by KRS 157.360. Funds appropriated to the SEEK Program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. Notwithstanding KRS 157.360(2)(c), included in the appropriation for the base SEEK Program is $211,953,500 in fiscal year 2004-2005 and $211,953,500 in fiscal year 2005-2006 for pupil transportation.

(3) **Tier I Component:** Included in the above appropriation is $141,069,300 in fiscal year 2004-2005 and $134,464,400 in fiscal year 2005-2006 for the Tier I component as established by KRS 157.440.

(4) **Vocational Transportation:** Included in the above appropriation is $2,416,900 in fiscal year 2004-2005 and $2,416,900 in fiscal year 2005-2006 for vocational transportation.

(5) **Secondary Vocational Education:** Included in the above appropriation is $21,452,600 in fiscal year 2004-2005 and $21,452,600 in fiscal year 2005-2006 to provide secondary vocational education in state-operated vocational schools.

(6) **Facilities Support Program of Kentucky/Equalized Growth Nickel:** Included in the above appropriation is $64,658,700 in fiscal year 2004-2005 and $60,939,700 in fiscal year 2005-2006 to provide facilities equalization funding pursuant to KRS 157.440 and 157.620. Included in these General Fund appropriations is $3,000,000 in fiscal year 2004-2005 and $3,000,000 in fiscal year 2005-2006 to provide facilities equalization funding for debt service, new facilities, and major renovations of existing facilities pursuant to KRS 157.440, 157.620, and 157.621(2) and (3) as provided for in subsection (13) of this section for equalized growth nickel funding.

(7) **Teachers' Retirement System Employer Match:** Included in the above appropriation is $286,081,900 in fiscal year 2004-2005 and $297,095,500 in fiscal year 2005-2006 to enable local school districts to provide the employer match for qualified employees as provided for by KRS 161.550.

(8) **Salary Supplements for Nationally Certified Teachers:** Notwithstanding KRS 157.395, included in the above appropriation is $1,358,000 in each fiscal year to assist local school districts in providing salary supplements for teachers attaining certification by the National Board of Professional Teaching Standards. Funds shall be provided for salary supplements for those teachers who have applied and successfully completed requirements for candidacy by February 1, 2004.

(9) **Allocation of SEEK Funds:** Notwithstanding KRS 157.360(2)(c), the General Fund appropriations to the base SEEK Program are intended to provide a base guarantee of $3,191 per student in average daily attendance in fiscal year 2004-2005 and $3,198 per student in average daily attendance in fiscal year 2005-2006 as well as to meet the other requirements of KRS 157.360.

Nothing in this legislation shall be construed as prohibiting the contracting out of pupil transportation services.

Funds appropriated to the SEEK Program shall be allotted to school districts in accordance with KRS 157.310 to 157.440, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. The total appropriation for the SEEK Program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 to 157.440. If the required expenditures exceed these estimates, the Secretary of the Finance and Administration Cabinet, upon the written request of the Commissioner of Education and with approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the cited sections of the Kentucky Revised Statutes, but any increase of the total appropriation to the SEEK Program is subject to Part III, General Provisions, of this Act, and the provisions of KRS Chapter 48. If funds appropriated to the SEEK Program are insufficient to provide the amount of money required under KRS 157.310 to 157.440, allotments to local school districts may be reduced in accordance with KRS 157.430.

(10) Classroom Teacher and Classified Staff Pay Increases: Included in the above General Fund appropriation is $912,000 in fiscal year 2004-2005 and $95,201,200 in fiscal year 2005-2006 for the purpose of providing pay increases for certified classroom teachers and classified local school district employees. The $912,000 in fiscal year 2004-2005 included in the SEEK appropriation is for the purpose of providing aid to any local school district determined to be financially incapable, notwithstanding KRS 160.470(6)(a), of providing the mandated certified classroom teacher and classified employee pay increase. The determination shall be made by the State Budget Director in consultation with the Commissioner of the Department of Education and the Secretary of the Education Cabinet. Notwithstanding KRS 157.320, 157.350, and 157.420(2), and during fiscal year 2004-2005 only, KRS 160.470(6)(a), local school districts shall provide all certified staff serving exclusively in the position of classroom teacher a salary increase of not less than one and one-half percent in fiscal year 2004-2005 and an additional salary increase of not less than three percent in fiscal year 2005-2006. Local school districts shall also provide all classified personnel a salary or compensation increase of not less than one and one-half percent in fiscal year 2004-2005 and an additional salary or compensation increase of not less than three percent in fiscal year 2005-2006. For purposes of implementing this salary and compensation mandate only, "classroom teacher" shall be defined based on the following Professional Staff Data (PSD) job codes: 2010 - preschool classroom instructor; 2025 - kindergarten instructor; 2030 - primary classroom instructor; 2040 - elementary classroom instructor; 2050 - middle school classroom instructor; 2060 - high school classroom instructor; 2070 - job training instructor; 2080 - local vocational school instructor; 2090 - Chapter I instructor; 2095 - exceptional children instructor; 2096 - homebound teacher; 2099 - substitute teacher; 2100 - gifted and talented instructor; 2210 - resource teacher, and shall include any certified personnel within these codes actively employed in classroom teaching, preparation, or mentoring. The Kentucky Department of Education is authorized to decide any questions of eligibility status for the salary and compensation increases and such decisions shall apply uniformly to all local school districts.

(11) Final SEEK Calculation: Notwithstanding KRS 157.410, on or before March 1 of each year the chief state school officer shall determine the exact amount of the public common school fund to which each district is entitled and the remainder of the amount due each district for the year shall be distributed in equal installments beginning the first month after completion of final calculation and for each successive month thereafter.

(12) SEEK Adjustment Factors: Funds allocated for the SEEK base and its adjustment factors that are not needed for the base or a particular adjustment factor may be allocated to other adjustment factors, if funds for that adjustment factor are not sufficient.

(13) Equalized Growth Nickel: Notwithstanding KRS 157.621(1), local school districts shall receive state equalization facilities funding up to the amounts available for this purpose on the existing additional tax levy pursuant to KRS 157.621, if they have: (a) Previously levied the additional tax pursuant to KRS 157.621 for debt service and new facilities prior to fiscal year 2003-2004; (b) Levied the five cents ($0.05) under the provisions of KRS 157.440; (c) Met the growth requirements in KRS 157.621(2) in fiscal year 2002-2003; and (d) Levied an additional nickel tax pursuant to KRS 157.621 in addition to (a) and (b) of this paragraph.

(14) School Employee Flexible Spending Account Funds Transfer: As provided in Part V, Funds Transfer, of this Act, any funds remaining in flexible spending accounts of employees of local school districts for calendar year 2004 and calendar year 2005 shall also be transferred to the credit of the General Fund.

(15) Standards for Allocating Administrative and Classroom Moneys: The Office of Education Accountability shall develop a report that recommends standard definitions for local school expenditure codes and ratios or a range of ratios that would constitute standards for allocation administrative and classroom moneys. This study shall use the Standard and Poor's Performance Cost Index (PCI) as the basis for analyses of the return on resources by schools, districts, and the state as a whole as expressed by student performance.

TOTAL - EDUCATION

	2004-05	**2005-06**
General Fund (Tobacco)	1,888,400	1,888,400
General Fund	2,955,400,700	3,049,684,900
Restricted Funds	4,782,800	4,155,600
Federal Funds	525,092,000	525,250,900
TOTAL	3,487,163,900	3,580,979,800

E. EDUCATION CABINET

Budget Units

1. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

	2004-05	2005-06
General Fund	3,739,900	3,739,900
Restricted Funds	5,727,200	5,727,200
Federal Funds	185,000	190,000
TOTAL	9,652,100	9,657,100

(1) **Governor's Scholars Program:** Included in the above General Fund appropriation is $1,401,400 in fiscal year 2004-2005 and $1,396,200 in fiscal year 2005-2006 for the Governor's Scholars Program.

2. DEAF AND HARD OF HEARING

	2004-05	2005-06
General Fund	821,100	821,100
Restricted Funds	252,000	252,000
TOTAL	1,073,100	1,073,100

3. KENTUCKY EDUCATIONAL TELEVISION

	2004-05	2005-06
General Fund	14,145,200	14,145,200
Restricted Funds	1,039,600	1,075,700
Federal Funds	700,000	700,000
TOTAL	15,884,800	15,920,900

4. ENVIRONMENTAL EDUCATION COUNCIL

	2004-05	2005-06
Restricted Funds	187,200	187,200

5. LIBRARIES AND ARCHIVES

a. General Operations

	2004-05	2005-06
General Fund	6,722,000	6,868,600
Restricted Funds	1,827,600	1,896,200
Federal Funds	1,950,100	1,955,300
TOTAL	10,499,700	10,720,100

(1) **Undistributed Moneys:** Notwithstanding KRS 48.005, undistributed moneys received by a result of litigation with book suppliers shall be appropriated to the Department for Libraries and Archives for the benefit of libraries in the Commonwealth.

b. Direct Local Aid

	2004-05	2005-06
General Fund	6,247,500	6,100,900
Restricted Funds	9,000	9,000
Federal Funds	424,000	424,000
TOTAL	6,680,500	6,533,900

(1) **Per Capita Grants:** Notwithstanding KRS 171.201, included in the above General Fund appropriation is $3,669,500 in each fiscal year to award per capita grants at the rate of $0.73.

TOTAL - DEPARTMENT FOR LIBRARIES AND ARCHIVES

	2004-05	2005-06
General Fund	12,969,500	12,969,500
Restricted Funds	1,836,600	1,905,200
Federal Funds	2,374,100	2,379,300
TOTAL	17,180,200	17,254,000

6. SCHOOL FACILITIES CONSTRUCTION COMMISSION

	2004-05	2005-06

General Fund	95,042,400	102,844,300

(1) **Debt Service:** Included in the above General Fund appropriation is $7,827,300 in fiscal year 2004-2005 and $15,623,700 in fiscal year 2005-2006 in additional General Funds to: 1) fulfill the commitment made by the 2000 Regular Session of the General Assembly for $100 million in bonded indebtedness for local school construction and renovation; 2) fulfill the commitment made by the 2003 Regular Session of the General Assembly for an additional $100 million in bonded indebtedness for school construction and renovation; 3) fulfill the commitment made by the 2003 Regular Session of the General Assembly to the Fayette County public school system for $4,600,000 in bonded indebtedness; and 4) fulfill the commitment made by the 2003 Regular Session of the General Assembly for $110,000,000 in bonded indebtedness to address the needs of Category 5 (worst condition) schools.

(2) **Growth Nickel Levy:** The Facilities Support Program of Kentucky is fully funded in the 2004-2006 fiscal biennium. Notwithstanding KRS 157.621(3), local school districts may exercise authority expressed in KRS 157.621(1) and (2).

(3) **School Facility Revenue:** A local board of education may commit an equivalent tax rate not to exceed five cents ($0.05) in addition to the taxes levied in KRS 157.440(1)(b). Receipts from the levy shall be committed to debt service, new facilities, or major renovations of existing school facilities. The tax rate levied by the local board of education under this provision shall be made no later than October 1 of each odd-numbered year, and shall not be equalized with state funding. The levy shall be subject to recall.

(4) **Urgent Need School Trust Fund:** The Urgent Need School Trust Fund is established in the Finance and Administration Cabinet for the purpose of assisting school districts that have urgent and critical construction needs. The Urgent Need School Trust Fund shall be administered by the School Facilities Construction Commission. The fund may receive state appropriations, contributions, and grants from any source which shall be credited to the trust fund and invested until needed. All interest earned on the fund shall be retained in the trust fund. Notwithstanding KRS 45.229, moneys in the trust fund shall not lapse, but shall carry forward at the end of each fiscal year.

(5) **Category 5 Buildings:** Debt service assistance to each eligible district, as provided for in Part I, Operating Budget, of this Act, shall be determined by funding based on unmet need pursuant to KRS 157.620, calculated utilizing Cash Balances and Bonding Potential available for the project with the Kentucky Department of Education's Building Assessment document of March 4, 2003. These offers shall be administered in accordance with 750 KAR 1:010 where not in conflict with the language in this paragraph.

7. TEACHERS' RETIREMENT SYSTEM

	2004-05	2005-06
General Fund	102,794,600	113,123,600
Restricted Funds	6,623,000	6,623,000
TOTAL	109,417,600	119,746,600

(1) **State Retirement Obligations:** General Fund moneys are appropriated to comply with the obligations of the state under the Teachers' Retirement System statutes as provided in KRS 161.220 to 161.716 notwithstanding KRS 161.550.

(2) **Lapse of Excess Appropriated Funds:** The above General Fund appropriation, in conjunction with those included elsewhere within this Act for the Teachers' Retirement System, is based upon estimated funds needed to meet the requirements of KRS 161.220 to 161.716, notwithstanding KRS 161.550. If these combined General Fund appropriations are in excess of these requirements, the excess funds shall lapse to the credit of the General Fund.

(3) **Administrative Costs:** In accordance with KRS 161.420, in each fiscal year an amount not greater than four percent of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system. No General Fund moneys are provided in fiscal year 2004-2005 or fiscal year 2005-2006 for the cost of administration.

(4) **Amortization of Sick Leave:** Included in the above General Fund appropriation is $3,669,700 in fiscal year 2004-2005 and $8,009,200 in fiscal year 2005-2006 to provide the cost of amortizing the requirements of KRS 161.155 (sick leave) for members retiring during the 2004-2006 fiscal biennium.

(5) **Fiscal Year 2001-2002 and 2002-2003 Underappropriations:** Included in the above General Fund appropriation is $9,282,500 in fiscal year 2005-2006 to be applied toward underappropriations during fiscal year 2001-2002 and fiscal year 2002-2003, notwithstanding the provisions of KRS 161.550.

(6) **Highly Skilled Educators' Retirement Benefits:** Notwithstanding KRS Chapters 158 and 161, salary supplements received by persons selected as highly skilled educators on or after July 1, 2000, shall not be included in the total salary compensation for any retirement benefits to which the employee may be entitled.

8. DEPARTMENT FOR THE BLIND

	2004-05	2005-06
General Fund	1,290,300	1,306,300
Restricted Funds	1,847,200	1,833,900
Federal Funds	8,210,400	8,638,400

TOTAL	11,347,900	11,778,600

9. EMPLOYMENT SERVICES

	2004-05	**2005-06**
Restricted Funds	4,869,300	3,393,900
Federal Funds	733,305,800	734,092,000
TOTAL	738,175,100	737,485,900

(1) Unemployment Insurance Penalty and Interest Account: Notwithstanding KRS 341.835, funds in the amount of $2,700,000 from the Unemployment Insurance Penalty and Interest Account in the Unemployment Compensation Administration Fund shall be used during each fiscal year by the Department for Employment Services to operate employment, training, and unemployment insurance programs .

(2) Administration Expenses: In addition to supplementing the Unemployment Insurance Trust Fund, Federal Funds available to Kentucky as a result of the Reed Act distribution under Section 903(d) of the Federal Social Security Act, as amended, may be used for the administration of the unemployment compensation law and the public employment offices for costs allowable under the Unemployment Insurance and Wagner-Peyser Programs, subject to the provisions of KRS 48.630.

(3) Facility Replacement and Renovation Program: The General Assembly authorizes the Department for Employment Services to develop and implement a Facility Replacement and Renovation Program to improve the quality of facilities used by the Department and its clients, and to reduce departmental reliance on lease-rental properties.

Proceeds from the sale, transfer, or other disposition of existing facilities may be expended toward the purchase, construction, renovation, equipping, and furnishing of replacement facilities. Additionally, funds received from the Reed Act distribution under Section 903(d) of the Federal Social Security Act, as amended, may be used for the purpose of acquiring property and constructing a building and such improvements, facilities, paving, landscaping, and fixed equipment as may be required for use by the Education Cabinet. Expenditures authorized by this provision are limited to the use of funds derived from the sale of Cabinet-owned facilities, which equity rights are shared between both the state and national government, and funds received from the Reed Act distribution. Uses of Reed Act funds for these purposes are subject to the provisions of KRS 45.750 to 45.800 and 48.630

10. TECHNICAL EDUCATION

	2004-05	**2005-06**
General Fund	25,298,700	26,098,700
Restricted Funds	19,832,800	19,570,500
Federal Funds	15,179,700	15,179,700
TOTAL	60,311,200	60,848,900

(1) Participation in the Education Technology Program by Area Vocational Education Centers: Area Vocational Education Centers shall be fully eligible to participate in the Kentucky Education Technology System. Notwithstanding KRS 157.650, 157.655, 157.660, and 157.665, the School Facilities Construction Commission, in consultation with the Kentucky Board of Education and the Department of Education, shall develop administrative regulations which identify a methodology by which the average daily attendance for Area Vocational Education Centers may be equated to the average daily attendance of other local school districts in order that they may receive their respective distributions of these funds. The School Facilities Construction Commission shall include Area Vocational Education Centers in any offers of assistance to local school districts for technology assistance during the 2004-2006 fiscal biennium.

11. TRAINING AND REEMPLOYMENT

	2004-05	**2005-06**
Restricted Funds	700	-0-
Federal Funds	64,231,800	64,345,200
TOTAL	64,232,500	64,345,200

12. VOCATIONAL REHABILITATION

	2003-04	**2004-05**	**2005-06**
General Fund	-0-	12,294,300	12,477,300
Restricted Funds	-0-	2,952,900	2,893,200
Federal Funds	7,000	45,513,000	47,194,000
TOTAL	7,000	60,760,200	62,564,500

(1) Debt Service: Included in the above General Fund appropriation is $119,100 for debt service for new bonds as set forth in Part II of this Act.

13. EDUCATION PROFESSIONAL STANDARDS BOARD

	2004-05	2005-06
General Fund	9,870,800	10,312,000
Restricted Funds	829,600	829,600
Federal Funds	4,379,200	4,379,200
TOTAL	15,079,600	15,520,800

(1) **National Board of Teaching Standards Certification:** Notwithstanding KRS 161.134, up to $725,000 in fiscal year 2004-2005 and $800,000 in fiscal year 2005-2006 is provided for National Board of Teaching Standards Certification from the General Fund.

(2) **Education Professional Standards Board Operations:** Notwithstanding KRS 161.028(1)(o) and (q), the above Restricted Funds appropriation may be used for the operations of the Board.

(3) **Kentucky Principal Internship Program:** Notwithstanding KRS 161.027, no funds are provided in the above appropriations for the operational costs of the Kentucky Principal Internship Program in either fiscal year of the 2004-2006 biennium.

(4) **Employment of Leadership Personnel:** Notwithstanding KRS 18A.005 to 18A.200, the Education Professional Standards Board shall have the sole authority to determine the employees of the Education Professional Standards Board staff who are exempt from the classified service and to set their compensation comparable to the competitive market.

TOTAL - EDUCATION CABINET

	2003-04	2004-05	2005-06
General Fund	-0-	278,266,800	297,837,900
Restricted Funds	-0-	45,998,100	44,291,400
Federal Funds	7,000	874,079,000	877,097,800
TOTAL	7,000	1,198,343,900	1,219,227,100

F. ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

Budget Units

1. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

	2004-05	2005-06
General Fund	10,328,400	10,328,400
Restricted Funds	7,118,700	7,222,500
Federal Funds	1,560,500	1,581,500
TOTAL	19,007,600	19,132,400

2. ENVIRONMENTAL PROTECTION

	2004-05	2005-06
General Fund	23,593,500	23,593,500
Restricted Funds	47,676,900	50,867,600
Federal Funds	16,065,200	15,602,900
TOTAL	87,335,600	90,064,000

(1) **Municipal Solid Waste Landfill Inspectors:** Notwithstanding KRS 224.43-320, no funds are provided in the above appropriations for the assignment of full-time inspectors to each municipal solid waste landfill operating in the Commonwealth.

(2) **Kentucky Pride Program:** Included in the above Restricted Funds appropriation is $24,991,500 in fiscal year 2004-2005 and $29,835,100 in fiscal year 2005-2006 for the Kentucky Pride Program.

(3) **Hazardous Waste Fund:** Notwithstanding KRS 224.46-580(7), the annual hazardous waste assessment as set forth in KRS 224.46-580(8) shall continue until June 30, 2006.

(4) **Solid Waste Enforcement Activity:** In accordance with KRS 224.43-505, the Environmental and Public Protection Cabinet shall suspend until July 2006 enforcement activity regarding landfill closure, maintenance, monitoring, and remediation obligations against formerly permitted municipal solid waste disposal and water facilities owned by a city or county that ceases accepting waste prior to July 1, 1992, except as necessary to abate an environmental emergency.

3. NATURAL RESOURCES

	2004-05	2005-06
General Fund (Tobacco)	9,000,000	9,000,000
General Fund	13,247,800	13,247,800

Restricted Funds	6,269,200	5,526,200
Federal Funds	9,743,900	9,872,100
TOTAL	38,260,900	37,646,100

(1) **Emergency Forest Fire Suppression:** Not less than $240,000 of the General Fund appropriation for each fiscal year shall be set aside for emergency forest fire suppression. There is appropriated from the General Fund the necessary funds, subject to the conditions and procedures provided in this Act, which are required as a result of emergency fire suppression activities in excess of the $240,000 amount. Fire suppression costs in excess of $240,000 annually shall be deemed necessary governmental expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(2) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is $9,000,000 in each fiscal year for the Environmental Stewardship Program.

4. SURFACE MINING RECLAMATION AND ENFORCEMENT

	2004-05	2005-06
General Fund	10,509,400	10,509,400
Restricted Funds	6,622,500	6,944,700
Federal Funds	16,832,700	17,007,900
TOTAL	33,964,600	34,462,000

(1) **Return of Permit and Acreage Fees:** Included in the above General Fund appropriation is $675,000 in each fiscal year for the return of permit and acreage fees under KRS 350.139; any required expenditure for this purpose in excess of this amount in either fiscal year is appropriated to the department.

(2) **Surface Coal Mining Permits:** The permit block provisions of KRS 350.085(6) shall apply both to surface coal mining and reclamation operations owned or controlled by the applicant, and those operations owning or controlling the applicant. The Natural Resources and Environmental Protection Cabinet shall continue in effect the current state regulations regarding ownership and control provided that a due process hearing shall be afforded at the time that the Cabinet makes a preliminary determination to impose a permit block.

The Cabinet shall conditionally issue a permit, permit renewal, or authorization to conduct surface coal mining and reclamation operations, if the Cabinet finds that a direct administrative or judicial appeal is presently being pursued, in good faith, to contest the validity of the determination of ownership and control linkage. The Cabinet shall conditionally issue permits where the applicant submits proof, including a settlement agreement, that the violation is being abated to the satisfaction of the issuing state or federal agency. Where the initial judicial appeal affirms the ownership or control linkage, the applicant shall have 30 days to submit proof that the violation has been or is in the process of being corrected. Nothing herein shall preclude the applicant from seeking further judicial relief. The reporting requirements of KRS 350.060(3) shall not extend to persons at the level above a publicly traded corporation who own or control the applicant.

5. ABANDONED MINE LAND RECLAMATION PROJECTS

	2004-05	2005-06
Federal Funds	22,000,000	22,000,000

(1) **Fund Receipt and Expenditures Estimates:** The above appropriations represent estimates of the funds to be received and expended for this program. If additional funds become available, the funds are appropriated subject to the conditions and procedures provided in this Act.

6. ENVIRONMENTAL QUALITY COMMISSION

	2004-05	2005-06
General Fund	150,000	150,000

(1) **Administrative Accountability:** The Environmental Quality Commission shall be attached to the Environmental and Public Protection Cabinet's Office of the Secretary, but shall remain a separate budget unit. The Secretary, with the approval of the Commissioners of the Environmental Quality Commission, may employ a director and other necessary Commission staff who shall serve at the pleasure of the Commission and the Secretary.

7. KENTUCKY NATURE PRESERVES COMMISSION

	2004-05	2005-06
General Fund	1,049,300	1,049,300
Restricted Funds	304,600	333,100
Federal Funds	70,500	70,500
TOTAL	1,424,400	1,452,900

(1) **Minor Use or Development:** Notwithstanding KRS 146.410 to 146.535, the Kentucky State Nature Preserves Commission may allow a minor use or development upon or near the property boundary of a nature preserve when the minor use

or development results in the addition of acreage to the preserve, furthers the goal of encouraging land use adjacent to the preserve which can help protect the character of the preserve, furthers an important public purpose identified by another state or local public agency, and does not substantially or fundamentally alter the character of the preserve.

8. ATHLETIC COMMISSION

	2003-04	2004-05	2005-06
Restricted Funds	23,500	129,700	129,700

9. PETROLEUM STORAGE TANK ENVIRONMENTAL ASSURANCE FUND

	2004-05	2005-06
Restricted Funds	28,413,000	28,788,000

10. ALCOHOLIC BEVERAGE CONTROL

	2004-05	2005-06
General Fund	1,380,800	1,380,800
Restricted Funds	4,468,100	4,499,200
TOTAL	5,848,900	5,880,000

(1) **Sale and Distribution of Tobacco Products Enforcement:** Included in the above General Fund appropriation is $260,000 in fiscal year 2004-2005 and $260,000 in fiscal year 2005-2006 to carry out the provisions of KRS 438.337.

11. CHARITABLE GAMING

	2004-05	2005-06
Restricted Funds	3,607,200	3,664,000

(1) **Gross Receipts Fee:** Notwithstanding KRS 238.570, the gross receipts fee for fiscal year 2004-2005 and fiscal year 2005-2006 shall be fifty-three one-hundredths of one percent.

12. BOARD OF CLAIMS/CRIME VICTIMS' COMPENSATION BOARD

	2004-05	2005-06
General Fund	813,000	813,000
Restricted Funds	2,834,300	2,856,400
Federal Funds	540,100	540,100
TOTAL	4,187,400	4,209,500

(1) **Sexual Assault Examinations:** Notwithstanding KRS 216B.400(8), examinations for reported victims of sexual assault shall be paid by the Crime Victims' Compensation Board in a manner consistent with KRS Chapter 346, at a rate determined by the Board. The Board shall reimburse the hospital or sexual assault examination facility as provided in administrative regulations promulgated by the Board.

13. FINANCIAL INSTITUTIONS

	2004-05	2005-06
Restricted Funds	8,992,700	9,221,900

14. HORSE RACING AUTHORITY

	2004-05	2005-06
General Fund	509,700	509,700
Restricted Funds	13,521,600	13,311,400
TOTAL	14,031,300	13,821,100

15. HOUSING, BUILDINGS AND CONSTRUCTION

	2004-05	2005-06
General Fund	2,296,700	2,296,700
Restricted Funds	11,859,000	12,141,100
TOTAL	14,155,700	14,437,800

16. INSURANCE

	2004-05	2005-06
General Fund (Tobacco)	16,782,600	16,751,700
Restricted Funds	24,535,400	25,332,100
TOTAL	41,318,000	42,083,800

(1) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is $16,782,600 in fiscal

year 2004-2005 and $16,751,700 in fiscal year 2005-2006 for the Kentucky Access Program.

(2) **Risk-based Capital (RBC):** A corporation, partnership, or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization, which by contract manages care and processes health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program, shall comply with risk-based capital (RBC) requirements as follows:

(a) For purposes of this subsection, RBC shall be determined in accordance with 806 KAR 38:100. Except for subsection (11)(c) of Section 1. and Section 11. of 806 KAR 38:100, a corporation, partnership, or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization, which by contract manages care and processes health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program, shall comply with 806 KAR 38:100;

(b) For the RBC reports required to be filed by health maintenance organizations which manage care and process health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program, the RBC levels shall be defined as follows: 1. "Company Action Level RBC" means the product of two and its Authorized Control Level RBC; 2. "Regulatory Action Level RBC" means the product of one and five-tenths and its Authorized Control Level RBC; 3. "Authorized Control Level RBC" means the product of four-tenths and the RBC after covariance determined under the RBC formula in accordance with the RBC instruction; and 4. "Mandatory Control Level RBC" means the product of seven-tenths and the Authorized Control Level RBC; and

(c) A corporation, partnership, or limited liability corporation applying for and holding a certificate of authority as a health maintenance organization managing care, processing health care claims, or providing health benefits to groups or individuals in addition to Medicaid-eligible and Kentucky Children's Health Insurance Program enrollees shall comply with the RBC requirements of paragraph (a) of this subsection and 806 KAR 38:100 and shall not be eligible to calculate its RBC according to this subsection.

(3) **Kentucky Access:** Notwithstanding KRS 304.17B-031, during the 2004-2006 biennium, the Secretary of the Environmental and Public Protection Cabinet may seek authorization from the State Budget Director to reallocate excess unbudgeted operating funds generated by the Office of Insurance to Access. Any such funding reallocations that are approved by the State Budget Director will be reported to the Interim Joint Committee on Appropriations and Revenue consistent with the provisions of the appropriations bill.

17. MINES AND MINERALS

	2004-05	2005-06
General Fund	9,035,200	9,035,200
Restricted Funds	1,597,000	2,231,700
Federal Funds	608,100	603,300
TOTAL	11,240,300	11,870,200

(1) **Funds Transfer:** Notwithstanding KRS 342.122, the Kentucky Workers' Compensation Funding Commission will finance a portion of the Mines and Minerals budget through Special Fund assessments. Funds in the amount of $850,000 in fiscal year 2004-2005 and $850,000 in fiscal year 2005-2006 shall be transferred to Mines and Minerals.

18. PUBLIC ADVOCACY

	2004-05	2005-06
General Fund	25,264,400	25,264,400
Restricted Funds	5,793,000	5,793,000
Federal Funds	1,474,000	1,569,600
TOTAL	32,531,400	32,627,000

19. PUBLIC SERVICE COMMISSION

	2004-05	2005-06
General Fund	11,154,100	11,409,800
Restricted Funds	1,024,000	1,024,000
Federal Funds	249,600	257,300
TOTAL	12,427,700	12,691,100

(1) **Debt Service:** Included in the above General Fund appropriation is $589,000 in fiscal year 2004-2005 and $589,000 in fiscal year 2005-2006 for debt service for previously issued bonds.

20. TAX APPEALS

	2004-05	2005-06
General Fund	486,100	486,100

21. WORKPLACE STANDARDS

	2004-05	2005-06
General Fund	1,953,800	1,953,800
Restricted Funds	110,187,700	108,072,700
Federal Funds	3,379,700	3,379,700
TOTAL	115,521,200	113,406,200

22. WORKERS' CLAIMS

	2004-05	2005-06
Restricted Funds	14,591,600	14,561,800

23. OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

	2004-05	2005-06
Restricted Funds	479,300	447,500

24. WORKERS' COMPENSATION FUNDING COMMISSION

	2004-05	2005-06
Restricted Funds	135,755,800	133,407,200

(1) **Mines and Minerals Budget Supplement:** Notwithstanding KRS 342.122, the Kentucky Workers' Compensation Funding Commission is authorized to finance a portion of the Environmental and Public Protection Cabinet's Mines and Minerals budget through Special Fund assessments. Funds in the amount of $850,000 in fiscal year 2004-2005 and $850,000 in fiscal year 2005-2006 shall be transferred to Mines and Minerals.

(2) **Commission Funding:** Notwithstanding KRS 342.122(1)(c), no General Fund appropriation is provided to the Kentucky Workers' Compensation Funding Commission in fiscal year 2004-2005 and fiscal year 2005-2006.

(3) **Assessment Rate:** Notwithstanding KRS 342.122(1)(b), the assessment rate will remain 11.5 percent for the 2004-2006 biennium.

TOTAL - ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

	2003-04	2004-05	2005-06
General Fund (Tobacco)	-0-	25,782,600	25,751,700
General Fund	-0-	111,772,200	112,027,900
Restricted Funds	23,500	435,781,300	436,375,800
Federal Funds	-0-	72,524,300	72,484,900
TOTAL	23,500	645,860,400	646,640,300

G. FINANCE AND ADMINISTRATION CABINET

Budget Units

1. GENERAL ADMINISTRATION

	2004-05	2005-06
General Fund	8,304,600	8,304,600
Restricted Funds	2,649,600	2,649,600
TOTAL	10,954,200	10,954,200

(1) **Affordable Housing Trust Fund:** Included in the above General Fund appropriation is $2,500,000 in fiscal year 2004-2005 and $2,500,000 in fiscal year 2005-2006 for the Affordable Housing Trust Fund.

(2) **Medicaid Supplement - Transition Balance:** Unspent gubernatorial transition funds of not less than $110,000 in fiscal year 2003-2004 are directed to be lapsed to the General Fund Surplus for appropriation in fiscal year 2003-2004 to the Medicaid Benefits appropriation unit in the Health and Family Services Cabinet in order to increase the amount of Federal Funds able to be matched.

2. CONTROLLER

	2004-05	2005-06
General Fund	5,768,600	5,768,600
Restricted Funds	243,200	250,600
Federal Funds	3,250,000	2,250,000
TOTAL	9,261,800	8,269,200

(1) **Social Security Contingent Liability Fund:** Notwithstanding KRS 61.470(4) or any other statute or provision of law to the contrary, no money is appropriated for the Social Security Contingent Liability Fund established by KRS 61.470(4). Any expenditures that may be required by KRS 61.470 are hereby deemed necessary government expenses and shall be paid first

from the General Fund Surplus Account (KRS 48.700), if available, or from any available balance in either the Judgements budget unit appropriation or the Budget Reserve Trust Fund Account (KRS 48.705), subject to the conditions and procedures provided in the Appropriations Act.

3. DEBT SERVICE

	2004-05	2005-06
General Fund (Tobacco)	6,116,600	6,113,200
General Fund	274,329,600	282,680,400
Road Fund	2,930,000	2,505,000
TOTAL	283,376,200	291,298,600

(1) **New Debt Service:** Included in the above General Fund appropriation is $12,427,000 in fiscal year 2005-2006 to support new bonds as set forth in Part II of this Act for appropriation units within the Finance and Administration Cabinet.

(2) **Tobacco Settlement Funds - Debt Service:** To the extent that revenues sufficient to support the required debt service appropriations are received from the Tobacco Settlement Program, those revenues shall be made available from those accounts to the appropriate account of the General Fund. All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid regardless of whether there is a sufficient amount available to be transferred from tobacco supported funding program accounts to other accounts of the General Fund.

4. ADMINISTRATION

	2004-05	2005-06
General Fund	3,397,500	3,397,500
Restricted Funds	7,780,300	7,658,200
Road Fund	283,000	283,000
TOTAL	11,460,800	11,338,700

5. FACILITIES MANAGEMENT

	2004-05	2005-06
General Fund	7,475,600	7,475,600
Restricted Funds	28,587,000	28,332,500
TOTAL	36,062,600	35,808,100

6. COUNTY COSTS

	2004-05	2005-06
General Fund	22,926,600	22,926,600
Restricted Funds	1,925,000	1,925,000
TOTAL	24,851,600	24,851,600

(1) **Base Court Revenue:** Notwithstanding KRS 24A.190 to 24A.193, included in the above General Fund appropriation is $2,715,500 in fiscal year 2004-2005 and $2,715,500 in fiscal year 2005-2006 for base court revenue to provide payments to cities and counties that had a local court system as of June 30, 1976. The payments are based on 50 percent of the average net court revenue earned by the city during 1973-1974, 1974-1975, and 1975-1976 fiscal years.

Funds required to pay county costs other than base court revenue funded by the General Fund are appropriated and additional funds may be allotted from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705) by the Secretary of the Finance and Administration Cabinet, subject to the conditions and procedures provided in this Act.

7. GOVERNOR'S OFFICE FOR TECHNOLOGY

	2003-04	2004-05	2005-06
General Fund	-0-	292,500	292,500
Restricted Funds	-0-	56,453,700	56,597,200
Federal Funds	554,000	771,800	628,300
Road Fund	-0-	125,000	125,000
TOTAL	554,000	57,643,000	57,643,000

8. REVENUE

	2004-05	2005-06
General Fund (Tobacco)	175,000	175,000
General Fund	67,173,500	68,114,900

Restricted Funds	3,953,000	3,915,900
Road Fund	1,418,000	1,418,000
TOTAL	72,719,500	73,623,800

(1) **Insurance Surcharge Rate:** Pursuant to KRS 136.392, the insurance surcharge rate shall be calculated at a rate to provide sufficient funds in the 2004-2006 fiscal biennium for the Firefighters Foundation Program Fund and the Kentucky Law Enforcement Foundation Program Fund. The calculation of sufficient funds for the above-named programs shall include any Restricted Funds carried forward from fiscal years 2003-2004 and 2004-2005 provided by the General Assembly in this Act.

(2) **Road Fund Compliance and Motor Vehicle Property Tax Programs:** The above Road Fund appropriation represents the cost of the Road Fund Compliance and Motor Vehicle Property Tax Programs within the Department of Revenue and is to be used exclusively for that purpose.

(3) **Delinquent Tax Fund:** Notwithstanding KRS 134.400, the administration of the Delinquent Tax Fund is in Property Valuation. Proceeds shall be deposited to this account, except that the first $100,000 shall be deposited exclusively to the General Fund. The Department of Revenue may retain and expend funds from the accumulated balance in the Delinquent Tax Fund account for the administrative activities of the Department of Revenue.

(4) **Tax Compliance and Collection Efforts:** Included in the above General Fund appropriation is $4,007,800 in fiscal year 2004-2005 and $4,181,400 in fiscal year 2005-2006 for personnel, operating costs, and information systems to support compliance and efficiency in collections of delinquent taxes and other amounts owed to the Commonwealth.

(5) **Refund of Sales Tax Paid on Communications Services:** Notwithstanding KRS 139.505, all applicants filing on or after June 1, 2003, for the refundable credit for sales tax paid on communications service shall comply with the following: any business whose interstate communications service, subject to the sales tax imposed under KRS Chapter 139 and deducted for federal income tax purposes, exceeds five percent of the business's Kentucky gross receipts during the preceding calendar year is entitled to a refundable credit if the business's annual Kentucky gross receipts are equal to or more than $1,000,000, and the majority of the interstate communications service billed to a Kentucky service address for the annual period is for communications service originating outside of this state and terminating in this state.

The refundable credit shall be equal only to the sales tax paid on the difference by which the interstate communications service purchased by the business exceeds five percent of the business's Kentucky gross receipts.

To facilitate the administration of the refundable tax credit, the Department of Revenue shall grant eligible businesses which apply for the tax credit permission to directly report and pay the sales tax applicable to the purchase of communications service. Once the business receives permission to directly report and pay the tax, refunds of the tax paid on communications service shall not include any sales tax collected and paid by a communications service provider to the Department of Revenue.

(6) **Deduction for Taxes Paid to Foreign Countries:** Notwithstanding KRS 141.010(11)(a), effective for taxable years beginning after December 31, 2002, the deduction for taxes paid to foreign countries is not allowable.

(7) **Sales and Use Tax on Natural Gas Distribution Services:** Notwithstanding KRS 139.100, effective June 1, 2003, the furnishing of natural gas distribution services or natural gas transmission or transportation services shall be retail sales subject to sales and use tax except for the furnishing of those services to residential customers as defined in KRS 139.470(8).

(8) **Operations of Revenue** Notwithstanding KRS 132.672, 154.12-219, and 365.390(2), funds may be expended in support of the operations of the Department of Revenue.

9. PROPERTY VALUATION ADMINISTRATORS

	2004-05	2005-06
General Fund	28,019,600	28,832,600
Restricted Funds	4,760,000	4,760,000
TOTAL	32,779,600	33,592,600

(1) **Management of Expenditures:** Notwithstanding KRS 132.590 and 132.597, the property valuation administrators are authorized to take necessary actions to manage expenditures within the appropriated amounts contained in this Act.

TOTAL - FINANCE AND ADMINISTRATION CABINET

	2003-04	2004-05	2005-06
General Fund (Tobacco)	-0-	6,291,600	6,288,200
General Fund	-0-	417,688,100	427,793,300
Restricted Funds	-0-	106,351,800	106,089,000
Federal Funds	554,000	4,021,800	2,878,300
Road Fund	-0-	4,756,000	4,331,000
TOTAL	554,000	539,109,300	547,379,800

H. HEALTH AND FAMILY SERVICES CABINET

Budget Units

1. GENERAL ADMINISTRATION AND PROGRAM SUPPORT

	2004-05	2005-06
General Fund	36,238,500	36,712,500
Restricted Funds	10,470,800	10,376,800
Federal Funds	44,976,400	45,306,000
TOTAL	91,685,700	92,395,300

(1) Maximizing Federal Funds: Pursuant to compliance with the State/Executive Budget Bill and the Statutory Budget Memorandum, the Health and Family Services Cabinet shall maximize Federal Funds for programs within the Cabinet.

(2) Human Services Transportation Delivery: Notwithstanding KRS 281.014, 281.870, 281.872, or any other statute or provision of law to the contrary, agencies within the former Cabinet for Families and Children shall not participate in the Human Services Transportation Delivery Program or the Coordinated Transportation Advisory Committee effective July 1, 2002.

(3) Debt Service: Included in the above General Fund appropriation is $474,000 in fiscal year 2005-2006 for debt service for new bonds as set forth in Part II of this Act.

2. COMMISSION FOR CHILDREN WITH SPECIAL HEALTH CARE NEEDS

	2004-05	2005-06
General Fund (Tobacco)	1,455,000	1,455,000
General Fund	16,200,100	17,100,100
Restricted Funds	23,469,300	24,395,300
Federal Funds	10,300,000	10,274,000
TOTAL	51,424,400	53,224,400

(1) Tobacco Settlement Funds: Included in the above General Fund (Tobacco) appropriation is $450,000 in each fiscal year for Universal Newborn Hearing Screening; $5,000 in each fiscal year for Vision Screening; and $1,000,000 each fiscal year for the Kentucky Early Intervention Services First Steps Program.

(2) Lapse: Notwithstanding KRS 200.151, $49,000 of General Fund (Tobacco) shall lapse at the end of fiscal year 2003-2004 to the credit of the General Fund.

3. MEDICAID SERVICES

a. Administration

	2004-05	2005-06
General Fund	18,028,200	18,028,200
Restricted Funds	18,306,000	18,306,000
Federal Funds	42,047,100	42,047,100
TOTAL	78,381,300	78,381,300

(1) Transfer of Excess Administrative Funds for Medicaid Benefits: If any portion of the General Fund appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the Department, the amount may be used for Medicaid Benefits, in accordance with statutes governing the functions and activities of the Department for Medicaid Services. In no instance shall these excess funds be used without prior written approval of the State Budget Director to:

(a) Establish a new program;
(b) Expand the services of an existing program; or
(c) Increase rates or payment levels in an existing program.

Any transfer authorized under this section shall be approved by the Secretary of the Finance and Administration Cabinet upon recommendation of the State Budget Director.

(2) Medicaid Service Category Expenditure Information: No Medicaid managed care contract shall be valid, and no payment to a Medicaid managed care vendor by the Finance and Administration Cabinet or the Health and Family Services Cabinet shall be made, until the Medicaid managed care contract contains a provision that the contractor shall collect Medicaid expenditure data by the categories of services paid for by the Medicaid Program. Actual statewide Medicaid expenditure data by all categories of Medicaid services, including mandated and optional Medicaid services, special expenditures/offsets, and Disproportionate Share Hospital payments by type of hospital, shall be compiled by the Department for Medicaid Services for all Medicaid providers and forwarded to the Interim Joint Committee on Appropriations and Revenue on a quarterly basis. Projections of Medicaid expenditures by categories of Medicaid services shall be provided to the Interim Joint Committee on Appropriations and Revenue upon request.

b. Benefits

	2003-04	2004-05	2005-06

General Fund	110,000	761,755,500	767,255,500
Restricted Funds	-0-	394,865,900	351,174,600
Federal Funds	-0-	2,694,243,300	2,592,220,200
TOTAL	110,000	3,850,864,700	3,710,650,300

(1) **Supports for Community Living Slots:** Included in the above appropriation is $1,000,000 in General Fund support and $2,302,500 in Federal Funds in fiscal year 2004-2005 to support 75 additional Supports for Community Living slots and $2,500,000 in General Fund support, and $5,723,700 in Federal Funds in fiscal year 2005-2006 to support 150 additional Supports for Community Living slots.

Supports for Community Living Waiver funds shall be appropriated only for direct services to qualified Supports for Community Living Waiver recipients, and any unexpended funds shall not lapse but shall be carried forward to the next fiscal year for the same purpose.

(2) **Acquired Brain Injury Waiver Program:** Included in the above appropriation is $272,500 in Restricted Funds and $627,500 in Federal Funds in fiscal year 2004-2005 and $304,000 in Restricted Funds and $696,000 in Federal Funds in fiscal year 2005-2006 to support the Acquired Brain Injury Waiver program.

(3) **Lapse of Excess General Funds:** Notwithstanding KRS 45.229, any General Fund appropriation unexpended in fiscal year 2004-2005 shall not lapse, but shall be carried forward into the next fiscal year.

(4) **Disproportionate Share Hospital Program:** Hospitals shall report indigent inpatient and outpatient care for which, under federal law, the hospital is eligible to receive disproportionate share payments. Disproportionate Share Hospital payments shall not exceed the maximum amounts established in the federal law.

(5) **Hospital Indigent Patient Billing:** Hospitals shall not bill patients for services where the services have been reported to the Cabinet and the hospital has received disproportionate share payments for the specific services.

(6) **Provider Tax Information:** Any provider who posts a sign or includes information on customer receipts or any material distributed for public consumption indicating that they have paid provider tax shall also post, in the same size typeset as the provider tax information, the amount of payment received from the Department for Medicaid Services during the same period the provider tax was paid. Providers who fail to meet this requirement shall be excluded from the Disproportionate Share Hospital and Medicaid Program. The Health and Family Services Cabinet shall include this provision in facilities' annual licensure inspection.

(7) **Quality and Charity Care Trust Fund:** No hospital may be reimbursed from both the Quality and Charity Care Trust Fund and the Disproportionate Share Hospital Program for the same service to the same patient. Any hospital that willfully violates this provision shall be subject to a penalty equal to three times the amount of the improper charge to the funds, which amount shall be credited to the General Fund. The Secretary of the Health and Family Services Cabinet shall have the authority to secure the patient information as needed from the participating facilities in order to determine compliance and enforce this provision. Each facility billing and receiving reimbursements from the Quality and Charity Care Trust Fund shall be required to identify each patient by Social Security number and indicate whether the patient is classified as indigent or medically needy. Notwithstanding any other provision of this Act or law, in any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement so agree, the General Fund appropriation to fulfill the Commonwealth's contractual obligation relating to the Quality and Charity Care Trust Agreement or any portion thereof, together with any other funds paid to the Quality and Charity Care Trust contractual obligation of the parties, or any portion thereof, shall be transferred to the Department for Medicaid Services as part of its Restricted Funds appropriation for Benefits. In any fiscal year for which all the parties to the Quality and Charity Care Trust Agreement do not agree to transfer all or any portion of the Trust's revenues to the Department for Medicaid Services for Benefits, the Quality and Charity Care Trust shall operate pursuant to its contractual provisions.

(8) **Kentucky Children's Health Insurance Program (KCHIP):** The Secretary of the Health and Family Services Cabinet may transfer from the Medicaid Benefits to the KCHIP General Fund or Restricted Funds appropriations to be used to match the Federal allocation. These transfers may be made to cover both additional regular allocations and redistribution from the federal government. The Secretary shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Upon concurrence of the State Budget Director and prior to the transfer, the Secretary shall make the appropriate appropriation increase request.

(9) **Intergovernmental Transfers (IGT's):** Any funds received through an IGT agreement between the Department for Medicaid Services and other governmental entities, in accordance with a federally approved state plan amendment, shall be used to provide for the health and welfare of the citizens of the Commonwealth through the provision of Medicaid benefits. This allocation shall include but not be limited to funds generated through transfer agreements with county-owned nursing homes, county-owned hospitals, state universities, and other governmental agencies. The Secretary of the Health and Family Services Cabinet shall recommend any proposed transfer to the State Budget Director for review and concurrence prior to transfer. Revenues from IGT's are contingent upon agreement by the parties and, when negotiated, the Secretary for Health and Family Services shall make the appropriations increase requests pursuant to KRS 48.630.

(10) **Child Sexual Abuse Exams:** The Department for Medicaid Services shall develop a reimbursement schedule to compensate participating health care providers for the full cost of providing child sexual abuse examinations for eligible children to the extent funds are available. The provisions of this subsection shall not mandate any services or payments that are not

otherwise provided in the Medicaid Benefits budget in this section. The reimbursement schedule shall not be reduced under any Managed Care Agreement. The Department for Medicaid Services may require participating health care providers to meet specific training and experience requirements.

(11) Medicaid Budget Analysis Reports: The Department for Medicaid Services shall submit a quarterly budget analysis report to the Interim Joint Committee on Appropriations and Revenue. The report shall provide monthly detail of actual expenditures, eligibles, and average monthly cost per eligible by eligibility category along with current trailing 12-month averages for each of these figures. The report shall also provide actual figures for all categories of noneligible-specific expenditures such as Supplemental Medical Insurance premiums, Kentucky Patient Access to Care, nonemergency transportation, drug rebates, cost settlements, and Disproportionate Share Hospital payments by type of hospital. The report shall compare the actual expenditure experience with those underlying the enacted or revised enacted budget and explain any significant variances which may occur.

(12) Medicaid Benefits Budget Deficit: In the event Medicaid Benefits expenditures are projected to exceed available funds, the Secretary of the Health and Family Services Cabinet shall be empowered to recommend that reimbursement rates, optional services, eligibles, or programs be reduced or maintained at levels existing at the time of the projected deficit in order to avoid a budget deficit. The projected deficit shall be confirmed by the Governor's Office of Economic Analysis. No service, eligible, or program reductions shall be implemented by the Health and Family Services Cabinet without written notice of such action to the Interim Joint Committee on Appropriations and Revenue and the State Budget Director. Such actions taken by the Health and Family Services Cabinet shall be reported, upon request, at the next meeting of the Interim Joint Committee on Appropriations and Revenue.

(13) Medicaid Benefits Budget Surplus: In the event Medicaid Benefits expenditures are less than available funds, the Secretary of the Health and Family Services Cabinet may recommend the utilization of available funds to increase reimbursement rates, expand the Medicaid Program or the number of eligibles, or transfer General Funds up to the amount of the excess Restricted Funds to other agencies within the Cabinet to be utilized for direct services to eligibles or clients. No reimbursement rate, service, eligible, or program shall be increased without written approval of the State Budget Director and review by the Interim Joint Committee on Appropriations and Revenue.

4. MENTAL HEALTH AND MENTAL RETARDATION SERVICES

	2004-05	**2005-06**
General Fund (Tobacco)	900,000	900,000
General Fund	167,683,800	168,073,800
Restricted Funds	182,341,300	180,029,600
Federal Funds	41,045,500	39,368,800
TOTAL	391,970,600	388,372,200

(1) Disproportionate Share Hospital Funds: Mental health disproportionate share funds are budgeted at the maximum amounts permitted by the Federal Balanced Budget Act of 1997, as amended by the Federal Benefits Improvements and Protection Act of 2000, in the amount of $30,200,000 in fiscal year 2004-2005 and $30,200,000 in fiscal year 2005-2006.

(2) Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses: Notwithstanding KRS 210.504, the Department for Mental Health and Mental Retardation Services shall provide at least $12,500 each fiscal year to be distributed to support the continued operation of the 14 regional planning councils and Commission activities relating to the mandates of KRS 210.500, 210.502, 210.504, 210.506, and 210.509, through June 30, 2006. The regional planning councils shall make recommendations for, and the Commission shall develop, a two year work plan for specifying goals and strategies relating to services and supports for individuals with mental illness and alcohol and other drug disorders and dual diagnoses, and efforts to reduce the stigma associated with mental illness and other substance abuse disorders. The Commission shall report workgroup activities and findings to the Governor and Interim Joint Committee on Health and Welfare by December 1 of each year.

(3) Debt Service: Included in the above General Fund appropriation in fiscal year 2005-2006 is $390,000 for debt service to support new bonds as set forth in Part II of this Act.

(4) Substance Abuse Prevention and Treatment: Included in the above General Fund (Tobacco) appropriation is $900,000 in each fiscal year for substance abuse prevention and treatment.

5. PUBLIC HEALTH

	2004-05	**2005-06**
General Fund (Tobacco)	17,228,000	17,173,000
General Fund	54,751;300	55,466,300
Restricted Funds	51,997,300	50,586,000
Federal Funds	148,315,300	148,294,700
TOTAL	272,291,900	271,520,000

(1) Debt Service: Included in the above General Fund appropriation is $715,000 in fiscal year 2005-2006 for debt service for new bonds as set forth in Part II. of this Act

(2) Tobacco Settlement Funds: Included in the above General Fund (Tobacco) appropriation is $8,149,900 in each fiscal year for the Health Access Nurturing Development Services Program; $2,000,000 in each fiscal year for Healthy Start initiatives; $2,000,000 in each fiscal year for Universal Children's Immunizations; $900,000 in each fiscal year for the Folic Acid Program; $1,000,000 in each fiscal year for Early Childhood Mental Health; and $462,500 in fiscal year 2004-2005 and $412,500 in fiscal year 2005-2006 for Early Childhood Oral Health. Also included in the above General Fund (Tobacco) appropriation is $2,715,600 in fiscal year 2004-2005 and $2,710,600 in fiscal year 2005-2006 for the Smoking Cessation Program.

6. CERTIFICATE OF NEED

	2004-05	2005-06
General Fund	117,700	117,700
Restricted Funds	162,900	158,800
TOTAL	280,600	276,500

7. AGING SERVICES

	2004-05	2005-06
General Fund	26,122,100	26,122,100
Restricted Funds	59,400	59,900
Federal Funds	21,214,900	21,143,700
TOTAL	47,396,400	47,325,700

(1) Local Match Requirements: Notwithstanding KRS 205.460, entities contracting with the Health and Family Services Cabinet to provide essential services under KRS 205.455 and 205.460 shall provide local match equal to or greater than the amount in effect during fiscal year 2001-2002. Local match may include any combination of materials, commodities, transportation, office space, personal services, or other types of facility services or funds. The Secretary of the Health and Family Services Cabinet shall prescribe the procedures to certify the local match assurance.

8. DISABILITY DETERMINATION SERVICES

	2004-05	2005-06
Restricted Funds	65,800	65,800
Federal Funds	42,243,800	42,692,200
TOTAL	42,309,600	42,758,000

9. COMMUNITY BASED SERVICES

	2004-05	2005-06
General Fund (Tobacco)	7,500,400	7,500,400
General Fund	274,693,100	289,793,100
Restricted Funds	135,166,400	115,139,200
Federal Funds	470,437,700	478,203,800
TOTAL	887,797,600	890,636,500

(1) Tobacco Settlement Funds: Included in the above General Fund (Tobacco) appropriation is $7,320,400 in fiscal year 2004-2005 and $7,320,400 in fiscal year 2005-2006 for the Early Childhood Development Program, and $180,000 in fiscal year 2004-2005 and $180,000 in fiscal year 2005-2006 for Child Advocacy Centers.

TOTAL - HEALTH AND FAMILY SERVICES CABINET

	2003-04	2004-05	2005-06
General Fund (Tobacco)	-0-	27,083,400	27,028,400
General Fund	110,000	1,355,590,300	1,378,669,300
Restricted Funds	-0-	816,905,100	750,292,000
Federal Funds	-0-	3,514,824,000	3,419,550,500
TOTAL	110,000	5,714,402,800	5,575,540,200

I. JUSTICE AND PUBLIC SAFETY CABINET

Budget Units

1. JUSTICE OPERATIONS

a. Justice Administration

	2004-05	2005-06
General Fund	7,153,500	7,690,600

Restricted Funds	991,500	878,400
Federal Funds	11,472,900	8,725,400
TOTAL	19,617,900	17,294,400

b. **Criminal Justice Training**

	2004-05	**2005-06**
Restricted Funds	37,941,400	37,941,400
Federal Funds	2,700,000	2,700,000
TOTAL	40,641,400	40,641,400

(1) Kentucky Law Enforcement Foundation Program Fund: Included in the above Restricted Funds appropriation is $36,883,600 in fiscal year 2004-2005 and $36,883,600 in fiscal year 2005-2006 for the Kentucky Law Enforcement Foundation Program Fund.

(2) Training Incentive Payments: Notwithstanding KRS 15.460(1), included in the above Restricted Funds appropriation is $3,100 in fiscal year 2004-2005 and $3,100 in fiscal year 2005-2006 for training incentive payments for each participant.

c. **Juvenile Justice**

	2004-05	**2005-06**
General Fund	82,574,100	83,374,100
Restricted Funds	12,200,000	12,193,900
Federal Funds	16,989,000	15,069,000
TOTAL	111,763,100	110,637,000

d. **State Police**

	2004-05	**2005-06**
General Fund	70,719,500	71,248,500
Restricted Funds	8,852,700	8,774,000
Federal Funds	13,814,700	13,444,700
Road Fund	40,000,000	40,000,000
TOTAL	133,386,900	133,467,200

(1) Call to Extraordinary Duty: There is appropriated from the General Fund to the Department of State Police, subject to the conditions and procedures provided in this Act, funds which are required as a result of the Governor's call of the Kentucky State Police to extraordinary duty when an emergency situation has been declared to exist by the Governor. Funding is authorized to be provided from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(2) State Police Authorized Strength: The Kentucky State Police sworn officer authorized strength, as defined in KRS 16.010, is 1,070.

(3) Debt Service Payments: Included in the above General Fund appropriation is $529,000 in fiscal year 2005-2006 to provide for debt service to support new bonds as set forth in Part II of this Act.

TOTAL - JUSTICE OPERATIONS

	2004-05	**2005-06**
General Fund	160,447,100	162,313,200
Restricted Funds	59,985,600	59,787,700
Federal Funds	44,976,600	39,939,100
Road Fund	40,000,000	40,000,000
TOTAL	305,409,300	302,040,000

2. **CORRECTIONS**

a. **Corrections Management**

	2004-05	**2005-06**
General Fund	15,624,800	16,381,500
Restricted Funds	13,294,800	13,294,800
Federal Funds	921,600	50,000
TOTAL	29,841,200	29,726,300

(1) Debt Service: Included in the above General Fund appropriation is $431,000 in fiscal year 2005-2006 to provide for debt service to support new bonds as set forth in Part II of this Act.

b. Adult Correctional Institutions

	2004-05	2005-06
General Fund	201,982,000	202,160,200
Restricted Funds	5,609,000	5,609,000
Federal Funds	315,200	315,200
TOTAL	207,906,200	208,084,400

c. Community Services and Local Facilities

	2004-05	2005-06
General Fund	86,581,400	91,912,500
Restricted Funds	371,000	371,000
TOTAL	86,952,400	92,283,500

(1) **Probation and Parole Credit:** Notwithstanding KRS 439.344, the period of time spent on parole shall count as a part of the prisoner's remaining unexpired sentence, when it is used to determine a parolee's eligibility for a final discharge from parole as set out in KRS 439.354, or when a parolee is returned as a parole violator for a violation other than a new felony conviction.

(2) **Excess Local Jail Per Diem Costs:** In the event that actual local jail per diem payments exceed the amounts provided to support the budgeted average daily population of state felons in county jails for fiscal year 2004-2005 and fiscal year 2005-2006, those payments shall be deemed necessary governmental expenses and may be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705) subject to notification as to necessity and amount by the State Budget Director who shall report any certified expenditure to the Interim Joint Committee on Appropriations and Revenue.

d. Local Jail Support

	2004-05	2005-06
General Fund	15,276,100	15,276,100

(1) **Inmate Medical Care Expenses:** Included in the above General Fund appropriation is $931,100 in fiscal year 2004-2005 and $931,100 in fiscal year 2005-2006 for medical care contracts to be distributed, upon approval of the Department of Corrections, to counties by the formula codified in KRS 441.206; $400,000 in fiscal year 2004-2005 and $400,000 in fiscal year 2005-2006 is provided, on a partial reimbursement basis, for medical claims in excess of the statutory threshold pursuant to KRS 441.045. The funding support for medical contracts and catastrophic medical expenses for indigents shall be maintained in discrete accounts. Any medical claim which exceeds the statutory threshold may be reimbursed for that amount in excess of the statutory threshold. In no event shall this apply to expenses of an elective, as opposed to emergency basis, and expenses shall be paid according to the Kentucky Medical Assistance Schedule.

TOTAL - CORRECTIONS

	2004-05	2005-06
General Fund	319,464,300	325,730,300
Restricted Funds	19,274,800	19,274,800
Federal Funds	1,236,800	365,200
TOTAL	339,975,900	345,370,300

3. KENTUCKY AGENCY FOR SUBSTANCE ABUSE POLICY

	2004-05	2005-06
General Fund (Tobacco)	2,226,800	2,222,700
Federal Funds	111,700	111,700
TOTAL	2,338,500	2,334,400

4. VEHICLE ENFORCEMENT

	2004-05	2005-06
Restricted Funds	329,200	329,200
Federal Funds	3,614,800	3,787,100
Road Fund	12,215,700	12,518,100
TOTAL	16,159,700	16,634,400

TOTAL - JUSTICE AND PUBLIC SAFETY CABINET

	2004-05	2005-06

General Fund (Tobacco)	2,226,800	2,222,700
General Fund	479,911,400	488,043,500
Restricted Funds	79,589,600	79,391,700
Federal Funds	49,939,900	44,203,100
Road Fund	52,215,700	52,518,100
TOTAL	663,883,400	666,379,100

J. POSTSECONDARY EDUCATION

Budget Units

1. COUNCIL ON POSTSECONDARY EDUCATION

	2003-04	2004-05	2005-06
General Fund (Tobacco)	-0-	5,431,300	5,421,300
General Fund	4,000,000	111,516,600	142,001,100
Restricted Funds	-0-	2,677,800	1,468,900
Federal Funds	788,800	19,099,400	19,099,400
TOTAL	4,788,800	138,725,100	167,990,700

(1) Debt Service: Included in the above General Fund appropriation for the Research Challenge Trust Fund is $3,815,000 in fiscal year 2005-2006 for debt service to support the Research related capital project appropriations authorized in Part II, Capital Projects Budget, of this Act.

Included in the above General Fund appropriation for the Physical Facilities Fund is $22,389,000 in fiscal year 2005-2006 for debt service to support new bonds as set forth in Part II of this Act, for Postsecondary Education institutions.

(2) Lapse of Funds: Notwithstanding KRS 45.229, the General Fund appropriation in fiscal year 2004-2005 to the Adult Education and Literacy Funding Program shall not lapse.

Notwithstanding KRS 45.229, the General Fund appropriation in fiscal year 2004-2005 to the Science and Technology Funding Program shall not lapse.

(3) Strategic Investment and Incentive Trust Funds Interest Income: Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, interest earnings in the amount of $820,000 in fiscal year 2004-2005 and $393,900 in fiscal year 2005-2006 shall be transferred from Strategic Investment and Incentive Trust Funds included under these statutes to Agency Revenue accounts within the Council on Postsecondary Education budget unit in the following amounts and for the following specified purposes: $100,000 in fiscal year 2004-2005 for the Contract Spaces Program, $105,500 in each year of the biennium for the Minority Student College Preparation program, $188,400 in each year of the biennium for the Southern Regional Board Doctoral Scholars program, and $100,000 in each year of the biennium for the P-16 Council/Early Math Testing programs, and $326,100 in fiscal year 2004-2005 for the Knowledge-Based Economy Academic program.

(4) Interest Earnings Transfer from the Strategic Investment and Incentive Trust Fund Accounts: Notwithstanding KRS 164.7911, 164.7913, 164.7915, 164.7917, 164.7919, 164.7921, 164.7923, 164.7925, and 164.7927, any expenditures from the Strategic Investment and Incentive Trust Fund accounts in excess of appropriated amounts by the Council on Postsecondary Education shall be subject to KRS 48.630.

(5) Kentucky Science and Technology Corporation: Notwithstanding KRS 164.6017, the Kentucky Science and Technology Corporation shall submit an annual plan detailing the annual allocation of funds from the Science and Technology Funding Program, excluding funds for the Knowledge-Based Economy Academic Programs, for review and approval by the Council on Postsecondary Education and the Office of the Commissioner for the New Economy within the Cabinet for Economic Development, prior to the Council on Postsecondary Education executing a contract with the Corporation to administer Science and Technology Funding programs.

(6) Tuition Affordability: The Council on Postsecondary Education should endeavor to minimize tuition increases to the extent possible and maintain Kentucky's affordability in providing postsecondary education for Kentuckians.

(7) Past Enrollment Growth Funding: Included in the above General Fund appropriation is $5,000,000 in fiscal year 2005-2006 to be allocated by the Council on Postsecondary Education among the postsecondary education institutions to rebalance the base funding of the institutions in the context of significant and disproportionate student enrollment growth over the past several years.

2. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

	2004-05	2005-06
General Fund (Tobacco)	900,000	900,000
General Fund	74,903,400	89,781,600
Restricted Funds	101,896,700	104,012,300

Federal Funds	1,714,900	1,726,000
TOTAL	179,415,000	196,419,900

(1) **College Access Program:** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $45,442,900 for the College Access Program in fiscal year 2004-2005 and $54,763,400 in fiscal year 2005-2006.

(2) **Kentucky Tuition Grant Program:** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation is $22,975,500 for the Kentucky Tuition Grant Program in fiscal year 2004-2005 and $28,470,000 in fiscal year 2005-2006.

(3) **Teacher Scholarship Program:** Notwithstanding KRS 154A.130(4), included in the above General Fund appropriation for the Teacher Scholarship Program is $1,681,600 in fiscal year 2004-2005 and $1,681,600 in fiscal year 2005-2006.

(4) **Kentucky Educational Excellence Scholarship (KEES) Program:** Included in the above Restricted Funds appropriation is $765,100 in fiscal year 2004-2005 and $765,100 in fiscal year 2005-2006 for the administration of the KEES Program.

(5) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is $900,000 in fiscal year 2004-2005 and $900,000 in fiscal year 2005-2006 for Early Childhood Scholarships.

(6) **Kentucky's Affordable Prepaid Tuition (KAPT):** Notwithstanding KRS 164A.707, no new prepaid tuition contracts for KAPT shall be entered into. Purchasers of prepaid tuition contracts may continue to make contributions to prepaid tuition accounts according to the provisions of the contract entered into with the Board of Directors of the Commonwealth Postsecondary Education Prepaid Tuition Trust Fund.

3. EASTERN KENTUCKY UNIVERSITY

	2003-04	2004-05	2005-06
General Fund	-0-	71,047,200	72,888,300
Restricted Funds	394,200	99,016,500	108,857,500
Federal Funds	-0-	45,655,400	47,929,900
TOTAL	394,200	215,719,100	229,675,700

(1) **Debt Service:** Included in the above General Fund appropriation is $3,311,200 in fiscal year 2004-2005 and $3,848,000 in fiscal year 2005-2006 for debt service for previously issued bonds.

4. KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM (KCTCS)

	2003-04	2004-05	2005-06
General Fund	-0-	183,224,700	184,823,800
Restricted Funds	-0-	195,586,100	217,738,000
Federal Funds	30,071,300	114,023,700	129,987,000
TOTAL	30,071,300	492,834,500	532,548,800

(1) **Debt Service:** Included in the above General Fund appropriation is $9,242,900 in fiscal year 2004-2005 and $9,495,200 in fiscal year 2005-2006 for debt service for previously issued bonds.

(2) **Firefighters Foundation Program Fund:** Included in the above Restricted Funds appropriation is $24,300,500 in fiscal year 2004-2005 and $25,198,700 in fiscal year 2005-2006 for the Firefighters Foundation Program Fund. Notwithstanding KRS 95A.250(1), or the provisions of any other law, supplemental payments for each qualified professional firefighter under the Firefighters Foundation Program Fund shall be $3,100 in fiscal year 2004-2005 and $3,100 in fiscal year 2005-2006. Notwithstanding KRS 95A.200 to 95A.265, an additional $1,000,000 each year from the Firefighters Foundation Program Fund is authorized to be expended on firefighter training, equipment, and support activities.

(3) **Firefighters Training Center Fund:** Notwithstanding KRS 95A.200 to 95A.265, $500,000 is provided each fiscal year of the 2002-2004 fiscal biennium for the Firefighters Training Center Fund.

(4) **Postsecondary Workforce Training Program:** Included in the above General Fund appropriation is $6,000,000 each year of the biennium for the Postsecondary Workforce Training Program to be used for worker training programs. These funds shall be used specifically to meet the customized workforce training needs of individual companies or consortia of companies.

5. KENTUCKY STATE UNIVERSITY

	2003-04	2004-05	2005-06
General Fund	-0-	23,414,900	22,517,800
Restricted Funds	-0-	14,176,500	14,176,500
Federal Funds	1,528,600	13,259,000	13,259,000
TOTAL	1,528,600	50,850,400	49,953,300

(1) **Debt Service:** Included in the above General Fund appropriation is $1,664,900 in fiscal year 2004-2005 and $95,300 in fiscal year 2005-2006 for debt service for previously issued bonds.

6. MOREHEAD STATE UNIVERSITY

	2003-04	2004-05	2005-06
General Fund	-0-	41,579,700	41,834,900
Restricted Funds	4,942,700	58,397,300	58,585,200
Federal Funds	-0-	36,752,900	36,674,500
TOTAL	4,942,700	136,729,900	137,094,600

(1) **Debt Service:** Included in the above General Fund appropriation is $1,433,000 in fiscal year 2004-2005 and $1,439,400 in fiscal year 2005-2006 for debt service for previously issued bonds.

7. MURRAY STATE UNIVERSITY

	2003-04	2004-05	2005-06
General Fund	-0-	50,203,000	51,434,200
Restricted Funds	3,890,100	60,392,600	64,150,700
Federal Funds	-0-	13,393,300	13,393,300
TOTAL	3,890,100	123,988,900	128,978,200

(1) **Debt Service:** Included in the above General Fund appropriation is $1,908,400 in fiscal year 2004-2005 and $1,909,600 in fiscal year 2005-2006 for debt service for previously issued bonds.

8. NORTHERN KENTUCKY UNIVERSITY

	2003-04	2004-05	2005-06
General Fund	-0-	45,068,500	45,823,600
Restricted Funds	13,226,200	92,525,000	101,001,000
Federal Funds	3,461,600	11,130,700	11,130,700
TOTAL	16,687,800	148,724,200	157,955,300

(1) **Debt Service:** Included in the above General Fund appropriation is 4,974,500 in fiscal year 2004-2005 and $4,731,700 in fiscal year 2005-2006 for debt service for previously issued bonds.

9. UNIVERSITY OF KENTUCKY

	2004-05	2005-06
General Fund	304,016,300	306,986,400
Restricted Funds	957,076,400	995,223,100
Federal Funds	170,696,000	175,533,600
TOTAL	1,431,788,700	1,477,743,100

(1) **Debt Service:** Included in the above General Fund appropriation is $7,263,600 in fiscal year 2004-2005 and $7,342,100 in fiscal year 2005-2006 for debt service for previously issued bonds for the University of Kentucky.

(2) **Lexington Community College:** Included in the above General Fund appropriation is $9,060,600 in fiscal year 2004-2005 and $9,060,600 in fiscal year 2005-2006 to support the operations of the Lexington Community College, of which $738,800 in fiscal year 2004-2005 and $742,500 in fiscal year 2005-2006 is for debt service for previously issued bonds.

Included in the above Restricted Funds appropriation is $17,871,800 in fiscal year 2004-2053 and $18,971,600 in fiscal year 2005-2006 to support the operations of the Lexington Community College.

Included in the above Federal Funds appropriation is $8,877,300 in fiscal year 2004-2005 and $8,937,600 in fiscal year 2005-2006 to support the operations of the Lexington Community College.

10. UNIVERSITY OF LOUISVILLE

	2003-04	2004-05	2005-06
General Fund	-0-	172,263,200	174,188,800
Restricted Funds	18,289,400	357,507,500	390,008,200
Federal Funds	22,392,400	80,500,500	87,818,700
TOTAL	40,681,800	610,271,200	652,015,700

(1) **Debt Service:** Included in the above General Fund appropriation is $11,142,500 in fiscal year 2004-2005 and $11,182,900 in fiscal year 2005-2006 for debt service for previously issued bonds.

(2) **Quality and Charity Care Trust Agreement:** Also included in the above General Fund appropriation is $17,693,200 in fiscal year 2004-2005 and $18,070,100 in fiscal year 2005-2006 to fulfill the Commonwealth's contractual

obligation relating to indigent care furnished via the Quality and Charity Care Trust Agreement. Notwithstanding KRS 45.229, the General Fund appropriation related to the Quality and Charity Trust Agreement in fiscal year 2004-2005 shall not lapse.

11. WESTERN KENTUCKY UNIVERSITY

	2003-04	2004-05	2005-06
General Fund	-0-	68,878,400	70,348,900
Restricted Funds	19,323,900	126,586,000	138,009,000
Federal Funds	-0-	35,600,000	39,071,000
TOTAL	19,323,900	231,064,400	247,428,900

(1) **Debt Service:** Included in the above General Fund appropriation is $3,181,400 in fiscal year 2004-2005 and $3,202,200 in fiscal year 2005-2006 for debt service for previously issued bonds.

TOTAL - POSTSECONDARY EDUCATION

	2003-04	2004-05	2005-06
General Fund (Tobacco)	-0-	6,331,300	6,321,300
General Fund	4,000,000	1,146,115,900	1,202,629,400
Restricted Funds	60,066,500	2,065,838,400	2,193,230,400
Federal Funds	58,242,700	541,825,800	575,623,100
TOTAL	122,309,200	3,760,111,400	3,977,804,200

K. TRANSPORTATION CABINET

Budget Units

1. GENERAL ADMINISTRATION AND SUPPORT

	2004-05	2005-06
Restricted Funds	24,307,200	24,542,000
Road Fund	66,655,900	67,240,200
TOTAL	90,963,100	91,782,200

(1) **Biennial Highway Construction Programs:** The Secretary of the Transportation Cabinet is directed to report monthly to the Legislative Research Commission all activity, as prescribed by KRS 176.430, relating to all projects with open activity conducted by the Transportation Cabinet during the biennium including the year each project phase was enacted in a Six Year Highway Plan. Pursuant to KRS 48.800(5), the Transportation Cabinet shall submit the electronic monthly report in a format prescribed by the Legislative Research Commission.

(2) **Debt Service:** Included in the above Road Fund appropriation is $7,317,300 in fiscal year 2004-2005 and $7,328,100 in fiscal year 2005-2006 for debt service on previously authorized bonds for the new Transportation Cabinet office building and parking structure.

(3) **Adopt-A-Highway Litter Program:** The Transportation Cabinet and Environmental and Public Protection Cabinet may receive, accept, and solicit grants, contributions of money, property, labor, or other things of value from any governmental agency, individual, nonprofit organization, or private business to be used for the Adopt-a-Highway Litter Program or other statewide litter programs. Any contribution of this nature shall be deemed to be a contribution to a state agency for a public purpose and shall be treated as Restricted Funds under KRS Chapter 45 and reported according to KRS Chapter 48, and shall not be subject to restrictions set forth under KRS Chapter 11A.

(4) **Transportation Cabinet Office Building:** The new Transportation Cabinet Office Building shall be owned by the Transportation Cabinet and any revenue generated from the leasing of office space in the new Transportation Cabinet Office Building shall be deposited in the Road Fund.

2. AIR TRANSPORTATION

	2004-05	2005-06
Restricted Funds	5,500,000	5,500,000
Federal Funds	15,000	9,700
TOTAL	5,515,000	5,509,700

(1) **Operational Costs:** Notwithstanding KRS 183.525(5), the Restricted Funds appropriation above includes operational costs of the program.

(2) **Certified Air Carriers and Cap on Sales and Use Tax:** The sales and use tax credit shall be an amount equal to the Kentucky sales and use tax otherwise applicable to aircraft fuel, including jet fuel, purchased by the certificated air carrier for its storage, use, or other consumption during the annual period, less $1,000,000. The $1,000,000 amount shall be increased to reflect the Kentucky sales and use tax on aviation fuel attributable to operations of any other company purchased, merged, acquired, or otherwise combined with the certificated air carrier after the base period. The amount of the increase shall be based on

the Kentucky sales and use tax applicable to such aircraft fuel purchased during the 12-month period immediately preceding the purchase, merger, or other acquisition by or combination with the certificated air carrier.

3. DEBT SERVICE

	2004-05	2005-06
Road Fund	116,113,500	125,170,000

(1) **Toll Road Lease-Rental Payments:** Included in the above Road Fund appropriation is $7,928,800 in fiscal year 2004-2005 and $7,815,500 in fiscal year 2005-2006 for toll road lease-rental payments.

(2) **Resource Recovery Road Lease-Rental Payments:** Included in the above Road Fund appropriation is $38,831,600 in fiscal year 2004-2005 and $38,828,600 in fiscal year 2005-2006 for Resource Recovery Road lease-rental payments. The Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease-rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Transportation Cabinet, pursuant to KRS 143.090. However, if Road Fund resources are not sufficient to meet lease-rental payments, the additional amount required to meet the obligation shall be transferred from the proceeds of the tax levied on the severance or processing of coal by KRS 143.020.

(3) **Economic Development Road Lease-Rental Payments:** Included in the above Road Fund appropriation is $69,353,100 in fiscal year 2004-2005 and $78,525,900 in fiscal year 2005-2006 for Economic Development Road lease-rental payments relating to projects financed by Economic Development Road Revenue Bonds previously issued by the Kentucky Turnpike Authority.

(4) **Excess Lease-Rental Payments:** Any moneys not required to meet lease-rental payments or to meet the administrative costs of the Kentucky Turnpike Authority shall be transferred to the State Construction account.

(5) **Debt Payment Acceleration Fund Account:** Notwithstanding KRS 175.505, no portion of the revenues to the state Road Fund provided by the adjustments in KRS 138.220(2), excluding KRS 177.320 and 177.365, shall accrue to the Debt Payment Acceleration Fund account during the 2004-2006 fiscal biennium.

4. HIGHWAYS

	2004-05	2005-06
Restricted Funds	86,858,800	157,222,100
Federal Funds	542,692,700	542,976,700
Road Fund	644,836,700	660,625,300
TOTAL	1,274,388,200	1,360,824,100

(1) **Debt Service:** Included in the above Federal Fund appropriation is $15,842,500 in fiscal year 2004-2005 and $15,838,300 in fiscal year 2005-2006 for debt service on GARVEE bonds.

(2) **State Supported Construction Programs:** Included in the above Road Fund appropriation is $367,853,600 in fiscal year 2004-2005 and $376,048,300 in fiscal year 2005-2006 for the State Supported Construction Program.

(3) **State Resurfacing Program:** Included in the State Supported Construction Program is $66,665,000 in fiscal year 2004-2005 and $66,665,000 in fiscal year 2005-2006 from the Road Fund for the State Resurfacing Program.

(4) **Specialized Contracts Account:** Included in the State Supported Construction Program is $100,000 in fiscal year 2004-2005 and $100,000 in fiscal year 2005-2006 from the Road Fund for the Specialized Contracts Account.

(5) **Biennial Highway Construction Program:** Included in the State Supported Construction Program is $263,348,600 in fiscal year 2004-2005 and $271,543,300 in fiscal year 2005-2006 from the Road Fund for state construction projects in the fiscal biennium 2004-2006 Biennial Highway Construction Program. Included within the above Road Fund appropriation is $2,500,000 in fiscal year 2004-2005 and $2,500,000 in fiscal year 2005-2006 to support the Kentucky Pride Fund created in KRS 224.43-505.

(6) **Highway Construction Contingency Account:** Included in the State Supported Construction Program is $37,740,000 in fiscal year 2004-2005 and $37,740,000 in fiscal year 2005-2006 for the Highway Construction Contingency Account. Included within the above Road Fund appropriation is $2,500,000 in fiscal year 2004-2005 and $2,500,000 in fiscal year 2005-2006 to support the Kentucky Pride Fund created in KRS 224.43-505.

(7) **2004-2006 Biennial Highway Construction Plan:** Projects in the enacted 2002-2004 Biennial Highway Construction Plan are authorized to continue their current authorization into the 2004-2006 fiscal biennium.

(8) **Kentucky Transportation Center:** Notwithstanding KRS 177.320(4), included in the above Road Fund appropriation is $290,000 in fiscal year 2004-2005 and $290,000 in fiscal year 2005-2006 for the Kentucky Transportation Center.

(9) **New Highway Equipment Purchases:** Notwithstanding KRS 48.710, Restricted Funds are appropriated in the amount of $1,500,000 in fiscal year 2004-2005 and $1,500,000 in fiscal year 2005-2006 from the sale of surplus equipment to purchase new highway equipment.

(10) **State Match Provisions:** The Transportation Cabinet is authorized to utilize state construction moneys or toll

credits to match federal highway moneys in the event that unanticipated additional Federal Funds are provided to Kentucky and the state match appropriations have been exhausted.

(11) **Excess Debt Service/Lease-Rental Appropriations:** Any Road Fund appropriations that are not needed to pay lease-rental payments to the Kentucky Turnpike Authority or debt service on the new Transportation Cabinet Office Building shall be credited to the State Construction Account.

(12) **Federal Aid Highway Funds:** If additional federal highway moneys are made available to Kentucky by the United States Congress, the funds shall be used according to the following priority: (a) Any demonstration-specific or project-specific money shall be used on the project identified; and (b) All other funds shall be used to ensure that projects in the fiscal biennium 2004-2006 Biennial Highway Construction Plan are funded. If additional federal moneys remain after these priorities are met, the Transportation Cabinet may select projects from the Four Year Preconstruction Program.

(13) **Demonstration Projects:** The Transportation Cabinet is authorized to select up to five design/build demonstration road related projects. For procurement purposes, the Transportation Cabinet shall utilize a qualifications-based bidding process within the context of the provisions of KRS Chapter 176, notwithstanding any conflicting provisions of KRS Chapters 45A, 176, and 177. The Secretary of the Transportation Cabinet shall determine the nature and scope of each design/build project.

(14) **Road Fund Cash Management:** The Secretary of the Transportation Cabinet is authorized to continue the cash management to address the policy of the General Assembly to expeditiously initiate and complete projects in the fiscal biennium 2004-2006 Biennial Highway Construction Plan. Notwithstanding KRS Chapter 45, specifically including KRS 45.242 and 45.244, the Secretary may concurrently advance projects in the Biennial Highway Construction Plan by employing management techniques that maximize the Cabinet's ability to contract for and effectively administer the project work. Under the approved Cash Management Plan, the Secretary is directed to continuously ensure that the unspent project and Road Fund balances available to the Transportation Cabinet are sufficient to meet expenditures consistent with appropriations provided.

(15) **Biennial Highway Construction Program:** In the event that federally funded projects contained in the enacted fiscal biennium 2004-2006 Biennial Highway Construction Program are delayed due to unforeseen circumstances, or if additional Federal Funds are received in excess of the amounts contemplated in this Act, the Transportation Cabinet may advance projects from the Highway Preconstruction Program Plan only to the extent required to ensure that the Commonwealth makes full use of all available Federal Funds.

(16) **Programmatic Adjustments:** The Secretary of Transportation is authorized to adjust the specific sums comprising the Highways appropriation programs enumerated above, for the purposes of enhancing public safety, maximizing available Federal Funds, supporting economic development, and accelerating state construction projects.

5. JUDGMENTS

(1) **Payment of Judgments:** Road Fund resources required to pay judgments shall be transferred from the State Construction Account at the time when actual payments must be disbursed from the State Treasury.

(2) **Lapse of Funds:** Notwithstanding KRS 45.229, any funds not expended by June 30, 2005, shall not lapse and shall carry forward through June 30, 2006.

6. PUBLIC TRANSPORTATION

	2004-05	**2005-06**
General Fund	4,753,400	4,753,400
Restricted Funds	500,000	508,900
Federal Funds	27,227,600	27,230,900
TOTAL	32,481,000	32,493,200

(1) **Human Services Transportation Delivery Program:** Consistent with other provisions of this Act, the Human Services Transportation Delivery Program shall continue to be operated under KRS 281.870, 281.872, 281.873, 281.874, 281.875, 281.876, 281.877, 281.878, and 281.879.

7. REVENUE SHARING

	2004-05	**2005-06**
Road Fund	228,298,300	231,976,100

(1) **County Road Aid Program Center:** Included in the above Road Fund appropriation is $86,421,800 in fiscal year 2004-2005 and $87,821,800 in fiscal year 2005-2006 for the County Road Aid Program in accordance with KRS 177.320, 179.410, 179.415, and 179.440. Notwithstanding KRS 177.320(2), the above amount has been reduced by $38,000 in fiscal year 2004-2005 and $38,000 in fiscal year 2005-2006 which has been appropriated to the Highways appropriation unit for the support of the Kentucky Transportation Center.

(2) **Rural Secondary Program:** Included in the above Road Fund appropriation is $104,839,700 in fiscal year 2004-2005 and $106,538,000 in fiscal year 2005-2006 for the Rural Secondary Program in accordance with KRS 177.320, 177.330, 177.340, 177.350, and 177.360. Notwithstanding KRS 177.320(1), the above amount has been reduced by $46,000 in fiscal year 2004-2005 and $46,000 in fiscal year 2005-2006 which has been appropriated to the Department of Highways appropriation unit for the support of the Kentucky Transportation Center.

(3) **Municipal Road Aid Program:** Included in the above Road Fund appropriation is $36,363,300 in fiscal year 2004-2005 and $36,952,300 in fiscal year 2005-2006 for the Municipal Road Aid Program in accordance with KRS 177.365, 177.366, and 177.369. Notwithstanding KRS 177.365(1), the above amount has been reduced by $16,000 in fiscal year 2004-2005 and $16,000 in fiscal year 2005-2006 which has been appropriated to the Department of Highways appropriation unit for the support of the Kentucky Transportation Center.

(4) **Energy Recovery Road Fund:** Included in the above Road Fund appropriation is $673,500 in fiscal year 2004-2005 and $664,000 in fiscal year 2005-2006 for the Energy Recovery Road Fund in accordance with KRS 177.977, 177.9771, 177.9772, 177.978, 177.979, and 177.981.

8. VEHICLE REGULATION

	2004-05	2005-06
Restricted Funds	3,868,000	4,040,400
Federal Funds	842,700	894,700
Road Fund	16,084,000	16,148,000
TOTAL	20,794,700	21,083,100

(1) **Motorcycle Education Program:** Notwithstanding KRS 186.890(1) and (2), all revenues from the collection of fees relating to the Motorcycle Safety Education Program Fund shall be utilized to provide motorcycle safety programs. No administrative costs for other programs or budget units within the Transportation Cabinet shall be deducted from the Motorcycle Safety Education Program. The Transportation Cabinet shall report biennially to the Interim Joint Committee on Appropriations and Revenue of the revenues deposited to the Fund, the expenditures incurred, and available balances. In addition, the Cabinet shall identify the safety programs provided, the cost of the programs, location, and number of attendees.

TOTAL - TRANSPORTATION CABINET

	2004-05	2005-06
General Fund	4,753,400	4,753,400
Restricted Funds	121,034,000	191,813,400
Federal Funds	570,778,000	571,112,000
Road Fund	1,071,988,400	1,101,159,600
TOTAL	1,768,553,800	1,868,838,400

L. NECESSARY GOVERNMENTAL EXPENSES

Budget Unit

1. NECESSARY GOVERNMENTAL EXPENSES

	2004-05	2005-06
General Fund	10,000,000	10,000,000

PART II

CAPITAL PROJECTS BUDGET

(1) **Capital Construction Fund Appropriations and Reauthorizations:** Moneys in the Capital Construction Fund are appropriated for the following capital projects subject to the conditions and procedures in this Act. Items listed without appropriated amounts are previously authorized for which no additional amount is required. These items are listed in order to continue their current authorization into the 2004-2006 fiscal biennium. Unless otherwise specified, reauthorized projects shall conform to the original authorization enacted by the General Assembly.

(2) **Expiration of Existing Line-Item Capital Construction Projects:** All appropriations to existing line-item capital construction projects expire on June 30, 2004, unless reauthorized in this Act with the following exceptions: (1) A construction contract for the project shall have been awarded by June 30, 2004; (2) Permanent financing or a short-term line of credit sufficient to cover the total authorized project scope shall have been obtained in the case of projects authorized for bonds; and (3) Grant or loan agreements, if applicable, shall have been finalized and properly signed by all necessary parties. Notwithstanding the criteria set forth in this subsection, the disposition of 2002-2004 biennium nonstatutory appropriated maintenance pools funded from Capital Construction Investment Income shall remain subject to the provisions of KRS 45.770(4)(c) and (d).

(3) **New Bond Projects:** Bond projects authorized for the first time in this section which have debt service supported by state General Fund appropriations are authorized in the first year of the biennium. Debt service has been included at the beginning of fiscal year 2005-2006. However, the sale of any bonds to finance these projects shall occur after January 1, 2005.

(4) **Canceled Projects:** If any authorized capital construction or major equipment projects are canceled, any General Fund appropriated debt service for those same projects shall lapse to the credit of the General Fund.

(5) **Contingent Appropriation for Base Realignment and Closure (BRAC):** Notwithstanding KRS 45.750 to 45.810, the General Assembly has determined that the Commonwealth's efforts to respond to the next phase of federal BRAC initiatives require that up to $400,000 in fiscal year 2003-2004 and up to $800,000 in fiscal year 2004-2005 be appropriated from

the Capital Construction and Equipment Purchase Contingency Account to the Department of Military Affairs for use by the Adjutant General in advancing the Commonwealth's interests.

(6) **Bond Proceeds Investment Income:** Investment income earned from bond proceeds beyond that which is required to satisfy Internal Revenue Service arbitrage rebates and penalties and excess bond proceeds upon the completion of a bond-financed capital project may be used to pay debt service according to the Internal Revenue Service Code and accompanying regulations. Notwithstanding KRS 48.010(13)(b), 48.720, or any section of this Act, any funds appropriated but not required to pay debt service because of this fund source substitution shall be credited to the Deferred Maintenance Pool Account each year. Unneeded debt service resulting from any other circumstance shall lapse in accordance with KRS 48.010(13)(b), 48.720, and other provisions of this Act except for the following: if the fund balance in the Emergency Repair, Maintenance, and Replacement Fund falls below $5,000,000 in fiscal year 2004-2005, any debt service lapse necessary to bring the fund balance to $5,000,000 in that fiscal year shall be credited to the Emergency Repair, Maintenance, and Replacement Fund. No transfer to the Emergency Repair, Maintenance, and Replacement Fund, or the Deferred Maintenance Pool Account, shall be made based on the above provisions if the lapse from other General Fund accounts is insufficient to meet appropriations approved in other Parts of this Act.

(7) **Appropriations for Projects Not Line-Itemized:** Inasmuch as the identification of specific projects in a variety of areas of the state government cannot be ascertained with absolute certainty at this time, amounts are appropriated for specific purposes to projects which are not individually identified in this Act in the following areas: Kentucky Infrastructure Authority Water and Sewer Projects Pool; Repair of State-Owned Dams; Land Acquisition; Property Demolition; Guaranteed Energy Savings projects; Purchase of Agricultural Conservation Easements; Wetland and Stream Mitigation; Phase I Tobacco Settlement Agricultural Development Initiative; Economic Development projects which shall include authorization for the High-Tech Construction Pool and the High-Tech Investment Pool; Infrastructure projects; Employment Services facilities projects authorized in this Part of this Act; Asbestos Abatement projects; Technology Trust Fund projects, systems, and initiatives; the Parks Renovation Project Pool; the Council on Postsecondary Education Agency Bond Pool; the Capital Renewal and Maintenance Bond Pool; and University Major Items of Equipment Pool. Any projects estimated to cost over $400,000 and equipment estimated to cost over $100,000 shall be reported to the Capital Projects and Bond Oversight Committee. All moneys transferred to the Finance and Administration Cabinet for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Finance and Administration Cabinet for capital construction.

A. GENERAL GOVERNMENT

Budget Units	**2004-05**	**2005-06**
1. **DEPARTMENT OF VETERANS' AFFAIRS**		
001. New State Veterans Cemetery - Central Kentucky		
Reauthorization		
002. New Veterans Cemetery - Northern Kentucky		
Reauthorization		
003. Maintenance Pool		
Investment Income	100,000	100,000
2. **KENTUCKY INFRASTRUCTURE AUTHORITY**		
001. KIA Fund A - Federally Assisted Wastewater Program		
Federal Funds	42,000,000	-0-
Bond Funds	8,400,000	-0-
TOTAL	50,400,000	-0-
002. KIA Fund F Drinking Water Revolving Loan Program		
Federal Funds	38,000,000	-0-
Bond Funds	7,600,000	-0-
TOTAL	45,600,000	-0-
003. KIA - Water and Sewer Resources Development Fund		
Bond Funds	50,000,000	-0-

(1) **Funds Appropriations:** The Bond Funds appropriated in items 001 and 002 above are the required state match for the federal program. The Federal Funds associated with the program are appropriated in the Operating Budget to comply with the Federal Cash Management Act.

(2) **Allocation Policy:** The Bond Funds appropriated in item 003 above are intended to be allocated according to need as determined by the Kentucky Infrastructure Authority (KIA) and in support of local economic development consistent with KIA's approved water and sewer plans.

(3) **Expenditure of Loan Repayments Cash Balances:** The Kentucky Infrastructure Authority is authorized to expend the cash balances from loan repayments on deposit at the trustee bank for financial assistance, in the form of low-interest loans, to

governmental agencies for professional planning and preliminary engineering design work required for eligible Fund A wastewater projects.

3.	**GOVERNOR'S OFFICE OF AGRICULTURAL POLICY**			
	001.	Replace Tobacco Funds		
		Bond Funds	17,000,000	-0-
4.	**TREASURY**			
	001.	Checksealer Equipment - Lease - Additional		
		Capital Construction Surplus	63,000	63,000
5.	**AGRICULTURE**			
	001.	Franklin County - Lease		
6.	**KENTUCKY RETIREMENT SYSTEM**			
	001.	Franklin County - Lease		
7.	**ATTORNEY GENERAL**			
	001.	Franklin County - Lease		
8.	**UNIFIED PROSECUTORIAL SYSTEM - COMMONWEALTH'S ATTORNEYS**			
	001.	Jefferson County - Lease		
9.	**PERSONNEL**			
	001.	Replace Commonwealth's Personnel Payroll System		
		Bond Funds	25,000,000	-0-
	002.	On-line Health Insurance Application		
		Restricted Funds	500,000	750,000
	003.	Franklin County - Lease		
10.	**MILITARY AFFAIRS**			
	001.	Upgrade Statewide Radio System		
		Bond Funds	1,400,000	-0-
	002.	Expand State Emergency Operations Center		
		Federal Funds	6,825,000	-0-
		Bond Funds	2,275,000	-0-
		TOTAL	9,100,000	-0-
	003.	Extend Runway and Taxiway Capital City Airport		
		Federal Funds	1,901,000	-0-
		Capital Construction Surplus	192,000	-0-
		TOTAL	2,093,000	-0-
	004.	Construct CCA Perimeter Security Fencing		
		Federal Funds	402,000	-0-
		Capital Construction Surplus	45,000	-0-
		TOTAL	447,000	-0-
	005.	Construct 30 New T-Hangars Capital City Airport		
		Investment Income	1,350,000	-0-
	006.	Construct Aircraft Modification Building at Bluegrass Station		
		Restricted Funds	500,000	-0-
		Federal Funds	1,500,000	-0-
		TOTAL	2,000,000	-0-
	007.	Runway Parallel Taxiway Pavement Overlay		
		Federal Funds	1,780,000	-0-
	008.	Maintenance Pool		
		Investment Income	860,000	860,000
	009.	Maintenance Pool -Bluegrass Station		
		Restricted Funds	2,500,000	2,500,000

010. Maintenance Pool - Air Transportation		
Investment Income	450,000	450,000
11. KENTUCKY RIVER AUTHORITY		
001. KY River Dam Maintenance Pool		
Restricted Funds	500,000	500,000
002. KRWSE - Dam 10 Real Estate, Dam 9 Final Design		
Restricted Funds	727,000	-0-
Agency Bonds	1,773,000	-0-
TOTAL	2,500,000	-0-
12. LOCAL GOVERNMENT		
001. Flood Control Matching Fund - Additional		
Restricted Funds	1,500,000	1,500,000
13. BOARD OF NURSING		
001. Jefferson County – Lease		

B. COMMERCE CABINET

Budget Units	**2004-05**	**2005-06**
1. PARKS		
001. Maintenance Pool		
Investment Income	3,990,000	3,990,000
002. Parks Renovation Pool		
Bond Funds	35,000,000	-0-
2. KENTUCKY HORSE PARK COMMISSION		
001. Construct Permanent Seating Stadium Jumping Area		
Other Funds	-0-	1,000,000
002. Maintenance Pool		
Investment Income	575,000	575,000
3. STATE FAIR BOARD		
001. Repave Parking Lots E, J and Ashton/Adair		
Restricted Funds	1,281,000	49,000
002. Replace Paving from Gate 1 to Gate 2		
Restricted Funds	900,000	-0-
003. Renovate Existing Restrooms		
Restricted Funds	44,000	788,000
004. Renovate KICC Pedway System		
Restricted Funds	50,000	950,000
005. Maintenance Pool		
Restricted Funds	1,000,000	1,000,000
4. FISH AND WILDLIFE RESOURCES		
001. Automated License Sales System Upgrade		
Restricted Funds	650,000	-0-
002. Fees-in-Lieu-of Stream Mitigation Projects Pool		
Restricted Funds	5,000,000	5,000,000
003. Maintenance Pool		
Restricted Funds	400,000	400,000
004. Land Acquisition Pool		
Restricted Funds	700,000	700,000
005. Edmonson County Environmental Study		
Reauthorization and Reallocation		

5. KENTUCKY HISTORICAL SOCIETY		
001. KY History Center - Purchase Casework		
Capital Construction Surplus	250,000	-0-
6. KENTUCKY CENTER FOR THE ARTS		
001. Maintenance Pool		
Investment Income	252,000	160,000

C. ECONOMIC DEVELOPMENT CABINET

(1) Economic Development Bond Issues: Before any economic development bonds are issued, the proposed bond issue shall be approved by the Secretary of the Finance and Administration Cabinet and the State Property and Buildings Commission under KRS 56.440 to 56.590. In addition to the terms and conditions of KRS 154.12-100, administration of the Economic Development Bond Program by the Secretary of the Cabinet for Economic Development is subject to the following guideline: project selection shall be documented when presented to the Secretary of the Finance and Administration Cabinet. Included in the documentation shall be the rationale for selection and expected economic development impact.

(2) Permissible Use of Available KEDFA Funds: Moneys available to the Kentucky Economic Development Finance Authority (KEDFA) under KRS 154.20-010 to 154.20-180 shall be used exclusively for the purposes of those statutes or as expressly provided for in this Act. Nothing in this Act shall prohibit the transfer of funds from KEDFA to the New Economy Program as set out in this Act.

Budget Units	**2004-05**	**2005-06**
1. SECRETARY		
001. New Economy High-Tech Investment/Construction Pool		
Restricted Funds	11,575,000	10,985,000

(1) Apportionment of Funds: The Commissioner of the Office for the New Economy shall determine the amounts to be apportioned between the High-Tech Investment Pool and the High-Tech Construction Pool.

2. FINANCIAL INCENTIVES		
001. Economic Development Bond Pool		
Reauthorization ($5,000,000 Bond Funds)		
Bond Funds - Additional	10,000,000	-0-
002. Purchase Regional Industrial Park		
Restricted Funds	2,250,000	-0-
003. Airport Relocation Assistance		
Bond Funds	5,000,000	-0-

D. DEPARTMENT OF EDUCATION

Budget Unit	**2004-05**	**2005-06**
1. EDUCATION		
001. Save Energy Performance Contract Project		
002. Replace New Lee Hall HVAC and Renovate KSD		
Bond Funds	3,490,000	-0-
003. Maintenance Pool		
Investment Income	675,000	675,000

E. EDUCATION CABINET

Budget Units	**2003-04**	**2004-05**	**2005-06**
1. KENTUCKY EDUCATIONAL TELEVISION			
001. Replace Roof at Network Center			
Investment Income		1,000,000	-0-
002. Maintenance Pool			
Investment Income		100,000	100,000
2. SCHOOL FACILITIES CONSTRUCTION COMMISSION			
001. School Facilities Construction Commission			
Reauthorization ($104,600,000 Bond Funds)			
002. Urgent Need School Trust Fund			

	Reauthorization ($55,284,000)			
003.	Category 5 School Buildings			
	Reauthorization (54,730,000)			
3.	**GENERAL ADMINISTRATION AND PROGRAM SUPPORT**			
001.	Guaranteed Energy Savings Project			
002.	Maintenance Pool			
	Investment Income		395,000	460,000
4.	**EMPLOYMENT SERVICES**			
001.	BARTS II			
	Federal Funds	563,000	-0-	-0-

(1) Facility Replacement and Renovation Program: The General Assembly authorizes the Department for Employment Services to develop and implement a facility replacement and renovation program to improve the quality of Cabinet for Workforce Development facilities used by the Department and its clients, and to reduce departmental reliance on lease/rental properties. The Department is directed to coordinate this program with the Secretary of the Finance and Administration Cabinet. Proceeds acquired from the sale, transfer, or other disposition of existing facilities may be expended toward the purchase, construction, renovation, and equipping and furnishing of replacement facilities. Expenditures authorized by this provision are limited to the use of funds solely derived from the sale of Cabinet-owned facilities, which equity rights are shared between both the state and the federal government.

5.	**VOCATIONAL REHABILITATION**			
001.	Replace Roof Perkins Rehabilitation Center			
	Bond Funds	-0-	1,200,000	-0-
002.	Franklin County - Lease			
003.	Fayette County - Lease			
6.	**TEACHERS' RETIREMENT SYSTEM**			
001.	KTRS Pension Management System			
	Restricted Funds	-0-	-0-	2,000,000

F. ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

Budget Units		**2004-05**	**2005-06**
1.	**GENERAL ADMINISTRATION AND SUPPORT**		
001.	Maintenance Pool		
	Investment Income	500,000	200,000
002.	Network Upgrade		
	Investment Income	500,000	-0-
003.	Franklin County - Lease		
2.	**ENVIRONMENTAL PROTECTION**		
001.	State-Funded Leaking Underground Storage Tanks		
	Restricted Funds	500,000	500,000
002.	State-Owned Dam Repair		
	Investment Income	1,500,000	500,000
003.	Hazardous Waste Management Fund		
	Restricted Funds	2,100,000	2,100,000
004.	National Environmental Exchange Network Grant		
	Federal Funds	150,000	350,000
005.	Franklin County - Lease (DoW Comm., Ash Bldg.)		
006.	Franklin County - Lease (Air Qual., Schenkel Ln.)		
007.	Kentucky Heritage Land Conservation Fund		
	Additional		
	Restricted Funds	3,000,000	3,000,000
	Federal Funds	1,000,000	1,000,000
	TOTAL	4,000,000	4,000,000

3. SURFACE MINING RECLAMATION AND ENFORCEMENT			
001. Franklin County - Lease			
4. KENTUCKY NATURE PRESERVES COMMISSION			
001. Kentucky Nature Preserves Acquisition Fund			
Other Funds		300,000	300,000
5. HOUSING, BUILDINGS AND CONSTRUCTION			
001. Franklin County - Lease			
6. PUBLIC ADVOCACY			
001. Franklin County - Lease			
7. WORKPLACE STANDARDS			
001. Franklin County - Lease			
8. WORKERS' CLAIMS			
001. Franklin County - Lease			

G. FINANCE AND ADMINISTRATION CABINET

Budget Units	2003-04	2004-05	2005-06
1. GENERAL ADMINISTATION			
001. Franklin County - Lease			
002. Franklin County - Lease			
2. ADMINISTRATION			
001. Two Inserting Machines - Postal Services			
Restricted Funds		300,000	-0-
002. Finance Genesco Building - Lease			
3. FACILITIES MANAGEMENT			
001. Design Renovation Capital Plaza, Tower & Site			
Bond Funds		5,573,000	-0-
002. Acquire Land/Demolish Bldgs. - Statewide			
Investment Income		975,000	975,000
003. Improve Site Infrastructure - KY Capitol Complex II			
Bond Funds		18,500,000	-0-
004. Capital Construction and Equipment Purchase Contingency Fund			
Investment Income	400,000	1,000,000	-0-
005. Deferred Maintenance Fund			
Investment Income		500,000	500,000
006. Renovate KY State Office Building - Phase II			
Bond Funds		46,000,000	-0-
007. Guaranteed Energy Performance Projects Pool			
008. Emergency Repair, Maintenance & Replacement Fund			
Investment Income		2,500,000	2,500,000
009. Maintenance Pool			
Restricted Funds		124,000	124,000
Investment Income		3,750,000	3,750,000
TOTAL		3,374,000	3,874,000

(1) **Authorization and Purpose of Pool:** The Guaranteed Energy Performance Projects Pool shall serve as a central project pool for Guaranteed Energy Savings Performance Contracts in any state-owned building. These contracts will function as lease-purchase procurements, using energy savings as payment for improvements, as provided by KRS 56.770 to 56.784. The Finance and Administration Cabinet is authorized to enter into various guaranteed energy performance contracts for facilities in any state agency.

4. KENTUCKY LOTTERY CORPORATION

001. Sales and Quota System

	Other Funds	500,000	-0-
002.	Potential Buyout of On-line Gaming System		
	Other Funds	12,250,000	-0-
003.	Contingency on Property Adjacent to New Headquarters		
	Other Funds	3,750,000	-0-
004.	Network Storage and Associated Infrastructure		
	Other Funds	500,000	-0-
005.	iSeries System Upgrades		
	Other Funds	1,500,000	-0-
006.	Data Processing, Telecomm., and Related Equipment		
	Other Funds	3,000,000	3,000,000

(1) **Property Acquisition:** The Kentucky Lottery Corporation may acquire properties related to the consolidation of the Kentucky Lottery Corporation's facilities assuming one or more of the properties becomes available for purchase. The purchase price of the properties shall not exceed $3,750,000 in the aggregate.

5. GOVERNOR'S OFFICE FOR TECHNOLOGY

(1) **Transfer of Restricted Funds from Operating Budget:** For the major equipment purchases displayed in this section funded from Restricted Funds, it is anticipated that these funds shall be transferred from the Operating Budget as funds are available and needed.

001.	UCJIS -Court Improvements (E-Warrants)		
	Federal Funds	2,000,000	-0-
	Bond Funds	4,500,000	-0-
	TOTAL	6,500,000	-0-
002.	Enterprise Infrastructure Security		
	Restricted Funds	1,000,000	-0-
003.	Enterprise Storage Solution		
	Restricted Funds	1,000,000	1,000,000
004.	Enterprise Tape Equipment/Media Solution		
	Restricted Funds	1,200,000	-0-
005.	Enterprise Messaging		
	Restricted Funds	660,000	-0-
006.	Disaster Recovery Project		
	Federal Funds	5,146,000	-0-
007.	KY Information Highway Upgrade Expansion		
	Restricted Funds	3,500,000	-0-
008.	Enterprise UNIX Server(s) Consolidation		
	Restricted Funds	2,000,000	1,300,000
009.	UCJIS - Criminal History		
	Bond Funds	2,000,000	-0-
010.	Enterprise Server Complex Upgrade		
	Restricted Funds	1,250,000	1,250,000
011.	Statewide Digital Orthoimagery Basemap Updating		
	Restricted Funds	200,000	-0-
	Federal Funds	300,000	-0-
	TOTAL	500,000	-0-
012.	Disk Storage Upgrade		
	Restricted Funds	800,000	-0-
013.	Public Safety Communications Infrastructure - KEWS		
	Bond Funds	26,768,000	-0-
014.	Enterprise Server (z/OS) Upgrade/Replacement		

	Restricted Funds	800,000	400,000
015.	Franklin County Lease		
6.	**OFFICE OF THE CONTROLLER**		
001.	Management Administrative Reporting System Upgrade		
	Restricted Funds	3,500,000	-0-
	Investment Income	3,500,000	-0-
	TOTAL	7,000,000	-0-
7.	**REVENUE**		
001.	Develop Streamlined Sales Tax Simplification System		
	Bond Funds	14,062,000	-0-
002.	Franklin County Lease - Perimeter Park		
003.	Franklin County Lease - 200 Fair Oaks		
004.	Franklin County Lease - 100 Fair Oaks		
005.	Business Refund Off-Set System		
	Bond Funds	1,750,000	-0-
006.	Collection System Interface Phase I		
	Investment Income	1,500,000	-0-

H. HEALTH AND FAMILY SERVICES CABINET

Budget Units		**2004-05**	**2005-06**
1.	**GENERAL ADMINISTRATION AND PROGRAM SUPPORT**		
001.	Safeguarding Children at Risk (TWIST Re-Write)		
	Federal Funds	264,000	261,000
	Bond Funds	1,227,000	-0-
	TOTAL	1,491,000	261,000
002.	Server Refresh Phase I		
	Federal Funds	249,200	-0-
	Investment Income	249,200	-0-
	TOTAL	498,400	-0-
003.	Network Infrastructure Upgrade FY 05-06		
	Federal Funds	781,500	-0-
	Investment Income	781,500	-0-
	TOTAL	1,563,000	-0-
004.	Child Support Enforcement (KASES II)		
	Federal Funds	3,960,000	-0-
	Bond Funds	2,040,000	-0-
	TOTAL	6,000,000	-0-
005.	Support for Health and Welfare Services (KAMES)		
	General Fund	-0-	6,000,000
	Federal Funds	-0-	54,000,000
	TOTAL	-0-	60,000,000
006.	Lease - Boone County		
007.	Lease - Boyd County		
008.	Lease - Campbell County		
009.	Lease - Fayette County		
010.	Lease - Fayette County		
011.	Lease - Franklin County		
012.	Lease - Franklin County		
013.	Lease - Hardin County		

	014. Lease - Harlan County		
	015. Lease - Henderson County		
	016. Lease - Jefferson County		
	017. Lease - Johnson County		
	018. Lease - Kenton County		
	019. Lease - Kenton County		
	020. Lease - OTS Franklin		
	021. Lease - Perry County		
	022. Lease - Shelby County		
	023. Lease - Warren County		
	024. Upgrade KASPER System DPH		
	Bond Funds	5,000,000	-0-
2.	**MENTAL HEALTH AND MENTAL RETARDATION SERVICES**		
	001. Medicaid Smartcard		
	General Fund	-0-	2,000,000
	Federal Funds	-0-	2,000,000
	TOTAL	-0-	4,000,000
	002. Upgrade HVAC Pipes & Electric - Glasgow		
	Bond Funds	2,000,000	-0-
	003. Replace Roof Oakwood		
	Bond Funds	2,000,000	-0-
	004. MH/MR Fair Oaks Franklin County - Lease		
	005. MH/MR VA Hospital - Lease		
	006. Maintenance Pool		
	Investment Income	1,300,000	1,500,000
	007. MH/MR Chiller Pool		
	Investment Income	450,000	-0-
	008. MH/MR Misc. Roof Pool - Statewide		
	Investment Income	700,000	-0-
3.	**PUBLIC HEALTH**		
	001. Purchase Laboratory Equipment - Tandem Mass Sp.-DPH		
	Capital Construction Surplus	330,000	-0-
	002. Replace Laboratory Equipment - DPH		
	Investment Income	350,000	-0-

I. JUSTICE AND PUBLIC SAFETY CABINET

Budget Units		**2004-05**	**2005-06**
1.	**JUVENILE JUSTICE**		
	001. Maintenance Pool		
	Investment Income	450,000	450,000
2.	**STATE POLICE**		
	001. Replacement of Records & Secure Evidence Facility		
	Bond Funds	5,522,000	-0-
	002. Maintenance Pool		
	Investment Income	300,000	300,000
3.	**CORRECTIONS MANAGEMENT**		
	001. Perform Energy Perf. Contracting - Various II		
	002. Replace Electronic Offender Mgt. Systems Ph I		
	Bond Funds	3,000,000	-0-

003.	Maintenance Pool		
	Investment Income	2,672,000	1,850,000

J. POSTSECONDARY EDUCATION

(1) **Postsecondary Education Capital Renewal and Maintenance Pool Match:** The Capital Renewal and Maintenance pool provides funding for individual projects at Kentucky's public postsecondary institutions to upgrade and replace building systems and infrastructure in Education and General facilities. The individual projects funded from this pool shall be recommended by the Council on Postsecondary Education to the Secretary of the Finance and Administration Cabinet from the project listings previously identified by the Council. The Council shall determine the allocation of the Capital Renewal and Maintenance pool among the postsecondary education institutions and report that allocation to the Secretary of the Finance and Administration Cabinet and the Legislative Research Commission's Capital Projects and Bond Oversight Committee. The bond funds in this pool shall be matched with the institutions' Restricted funds at varying levels as determined by the Council on Postsecondary Education.

(2) **Council on Postsecondary Education's Agency Bond Pool Projects:** The Council on Postsecondary Education shall identify projects for funding from the Council's Agency Bond Pool. The Council on Postsecondary Education shall report allocations from the Agency Bond Pool to the Secretary of the Finance and Administration Cabinet, the Interim Joint Committee on Appropriations and Revenue, the Interim Joint Committee on Education, and the Capital Projects and Bond Oversight Committee.

Budget Units		**2004-05**	**2005-06**
1.	**KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY**		
001.	Purchase Inserter		
	Restricted Funds	140,000	-0-
002.	Franklin County - Lease		
2.	**COUNCIL ON POSTSECONDARY EDUCATION**		
001.	Capital Renewal & Maintenance Pool		
	Bond Funds	15,000,000	-0-
002.	Agency Bond Pool		
	Agency Bonds	42,902,000	-0-
3.	**EASTERN KENTUCKY UNIVERSITY**		
001.	Construct Business/Technology Center, Phase II		
	Bond Funds	27,000,000	-0-
002.	Renovate Student Health Center		
	Restricted Funds	2,072,000	-0-
003.	Upgrade Academic Computing		
	Restricted Funds	2,300,000	2,600,000
004.	Purchase Networked Education System Component		
	Restricted Funds	3,450,000	3,500,000
005.	Minor Project Pool		
	Restricted Funds	3,975,000	-0-
006.	Expand, Upgrade Campus Data Network		
	Restricted Funds	7,212,000	6,000,000
007.	Upgrade Administrative Computing System		
	Restricted Funds	1,650,000	1,500,000
008.	Purchase Fourier Trans. Nuc. Mag. Res. Spect.		
	Restricted Funds	135,000	-0-
009.	Construct E & G Life Safety Begley Elevator		
	Reauthorization ($750,000 Restricted Funds)		
010.	Construct New Intramural Fields		
	Restricted Funds	2,300,000	-0-
011.	Renovate Residence Hall		
	Restricted Funds	7,500,000	-0-
012.	Purchase of Property		

	Restricted Funds	3,000,000	-0-
013.	Guaranteed Energy Savings Project		
014.	Renovate Watts Property (Elmwood)		
	Reauthorization ($2,000,000 Restricted Funds)		
015.	Expand and Renovate Presnell Building		
	Reauthorization ($1,000,000 Restricted Funds)		
016.	Expand Indoor Tennis Facility		
	Restricted Funds	1,000,000	-0-
4.	**KENTUCKY STATE UNIVERSITY**		
001.	Hathaway Hall Renovation Phase II		
	Bond Funds	7,400,000	-0-
002.	Renovate Young Hall - Additional		
	Reauthorization ($3,672,000 Agency Bonds)		
	Restricted Funds	396,000	-0-
	Bond Funds	5,339,000	-0-
	TOTAL	5,735,000	-0-
003.	Bradford Hall Structural Repair		
	Restricted Funds	900,000	-0-
004.	Expand Business Wing & Renovate Bradford Hall		
	Restricted Funds	8,400,000	16,600,000
005.	Construct New Residence Hall		
	Restricted Funds	20,000,000	-0-
006.	Roof Repairs & Replacement Exum/Combs/Bell Gym		
	Restricted Funds	450,000	450,000
007.	Extend Fiber Network to South Campus		
	Restricted Funds	839,000	-0-
008.	Implement Smart Card Technology		
	Restricted Funds	1,165,000	-0-
009.	Add New Chiller		
	Restricted Funds	2,392,000	-0-
010.	Hill Student Center 3rd Floor Build-out		
	Restricted Funds	600,000	-0-
011.	Telecommunication Equipment (PBX)		
	Restricted Funds	1,352,000	-0-
012.	Alumni Stadium Structural Repair		
	Restricted Funds	400,000	-0-
013.	Expand Cooperative Extension Bldg.		
	Federal Funds	-0-	3,353,000
014.	Softball Field		
	Restricted Funds	500,000	-0-
015.	Guaranteed Energy Savings Project		
5.	**MOREHEAD STATE UNIVERSITY**		
001.	Major Item of Equipment Pool		
	Restricted Funds	4,023,000	-0-
002.	Construct MSU-NASA Space Science Center		
	Federal Funds	5,000,000	-0-
	Bond Funds	7,200,000	-0-
	TOTAL	12,200,000	-0-

003.	Comply with ADA- E & G - Additional		
	Restricted Funds	500,000	-0-
004.	Expand Student Wellness Center - Additional		
	Restricted Funds	300,000	-0-
005.	Enhance Network/Infrastructure Resources		
	Reauthorization ($2,250,000 Restricted Funds)		
006.	Enhance Library Automation Resources		
	Reauthorization ($750,000 Restricted Funds)		
007.	Enhance Distance Learning Systems		
	Reauthorization ($2,500,000 Restricted Funds)		
008.	Expand Compressed Video Resources - Additional		
	Restricted Funds	309,000	-0-
009.	Upgrade Instruct. PCs/LANS/Peripherals		
	Reauthorization ($2,500,000 Restricted Funds)		
010.	Upgrade Administrative Office Systems		
	Reauthorization ($2,000,000 Restricted Funds)		
011.	Reconstruct Central Campus		
	Reauthorization ($780,000 Restricted Funds)		
012.	Acquire Land Related to Master Plan		
	Restricted Funds	2,000,000	-0-
013.	Replace Steam Line		
	Restricted Funds	500,000	-0-
014.	Replace Boiler Tubes		
	Restricted Funds	800,000	-0-
015.	Replace Bag House		
	Restricted Funds	2,000,000	-0-
016.	Construct Parking Structure - Additional		
	Restricted Funds	500,000	-0-
017.	Comply with ADA -Auxiliary		
	Reauthorization ($1,200,000 Restricted Funds)		
018.	Construct Family Housing Complexes Phase II - Additional		
	Restricted Funds	700,000	-0-
6.	**MURRAY STATE UNIVERSITY**		
001.	Construct New Science Complex - Phase II		
	Bond Funds	15,000,000	-0-
002.	Construct New Dormitories		
	Reauthorization ($10,154,000 Restricted Funds)		
003.	Replace Richmond Hall		
	Reauthorization ($8,000,000 Restricted Funds)		
004.	Replace Clark Hall		
	Reauthorization ($8,000,000 Restricted Funds)		
005.	Guaranteed Energy Savings Project		
006.	Acquire Land		
	Restricted Funds	499,800	-0-
007.	Install 350 Ton Chiller - Reg. Special Events Center		
	Reauthorization ($400,000 Restricted Funds)		
008.	Construct Public Safety Building		
	Restricted Funds	1,500,000	-0-

009.	Repair Stewart Stadium - Structural Restricted Funds	2,000,000	-0-
010.	Install Baseball Field and Stadium Sidewalk Lights Reauthorization ($600,000 Restricted Funds)		
011.	Replace Breathitt Veterinary Center Incinerator Restricted Funds	1,500,00	-0-
012.	Upgrade Campus Electrical Distribution System Reauthorization ($10,765,000 Restricted Funds)		
013.	Capital Renewal & Deferred Maintenance Pool Restricted Funds	19,084,000	-0-
014.	Replace Campus Communications Infrastructure Restricted Funds	2,500,000	-0-
015.	Replace Telephone Switching System Reauthorization ($1,000,000 Restricted Funds)		
016.	Replace Clark Hall Water Piping, Fixtures, Etc. Reauthorization ($600,000 Restricted Funds)		
017.	Replace Springer Hall Water Piping, Fixtures, Etc. Reauthorization ($800,000 Restricted Funds)		
018.	Replace Franklin Hall Water Piping, Fixtures, Etc. Reauthorization ($600,000 Restricted Funds)		
019.	Replace Richmond Hall Water Piping Fixtures, Etc. Reauthorization ($600,000 Restricted Funds)		
020.	Replace Regents Hall Domestic Water Piping Reauthorization ($500,000 Restricted Funds)		
021.	Upgrade College Courts Electrical System Reauthorization ($1,200,000 Restricted Funds)		
022.	Renovate College Courts Reauthorization ($3,636,000 Restricted Funds)		
023.	Renovate College Courts Interiors (12 Buildings) Reauthorization ($2,000,000 Restricted Funds)		
024.	Replace Student Writing and Design Lab Computers Restricted Funds	414,000	-0-
025.	Upgrade Campus Network to Gigabit Ethernet System Reauthorization ($1,000,000 Restricted Funds)		
026.	Install Online Centralized Data Access/Warehouse Restricted Funds	520,000	-0-
027.	Establish Centralized Technology Refresh Program Restricted Funds	2,600,000	-0-
028.	Purchase BVC Electron Microscope-Scanning Type Restricted Funds	300,000	-0-
029.	Replace Franklin Hall Reauthorization ($8,000,000 Restricted Funds)		
030.	Remove Elizabeth Hall Asbestos Ceiling Reauthorization ($450,000 Restricted Funds)		
031.	Remove Hester Hall Asbestos Ceilings Reauthorization ($450,000 Restricted Funds)		
032.	Repair Winslow Cafeteria Exterior Reauthorization ($500,000 Restricted Funds)		

7.	**NORTHERN KENTUCKY UNIVERSITY**		
001.	Regional Special Events Center		
	Bond Funds	42,000,000	-0-
002.	Construct New Student Union		
	Restricted Funds	32,800,000	-0-
003.	Repair Structure of Landrum Hall/Phase II		
	Restricted Funds	900,000	-0-
004.	Renovate/Expand Landrum Hall -Design		
	Restricted Funds	700,000	-0-
005.	Replace Power Distribution Infrastructure		
	Restricted Funds	3,000,000	-0-
006.	Upgrade AS &T Instructional Space		
	Restricted Funds	3,100,000	-0-
007.	Land Acquisition Pool - 2004-2006		
	Restricted Funds	3,000,000	-0-
008.	Replace Air Handlers		
	Restricted Funds	875,000	-0-
009.	Replace Elevators Landrum Hall/Lucas Admin Center		
	Restricted Funds	900,000	-0-
010.	Construct Sports Complex		
	Restricted Funds	12,000,000	-0-
011.	Initiate Phase II Master Plan		
	Restricted Funds	2,200,000	-0-
012.	Construct New Parking Deck Phase II		
	Restricted Funds	9,700,000	-0-
013.	Expand Regents Hall		
	Restricted Funds	1,300,000	-0-
014.	Reconstruct Central Plaza		
	Restricted Funds	3,500,000	-0-
015.	Enhance Info Technology Infrastructure		
	Reauthorization ($2,700,000 Restricted Funds)		
016.	Enhance Instructional Info Technology		
	Restricted Funds	3,600,000	-0-
017.	Construct Alumni Center		
	Restricted Funds	5,100,000	-0-
018.	Purchase Coach Bus		
	Restricted Funds	400,000	-0-
019.	Purchase Direct Image Platesetter		
	Restricted Funds	150,000	-0-
020.	Replace Admin Application System		
	Restricted Funds	6,160,000	-0-
021.	Lease Office Space		
8.	**UNIVERSITY OF KENTUCKY**		
001.	Major Item of Equipment Pool		
	Restricted Funds	75,000,000	-0-
002.	Construct Biological/Pharmaceutical Complex		
	Bond Funds	21,000,000	-0-
	Agency Bonds	21,000,000	-0-

	TOTAL	42,000,000	-0-

(1) **Construct Biological/Pharmaceutical Complex:** A portion of the General Fund supported bonds may be made available to the University for the above project prior to the issuance of the Agency bonds and after the submission of a letter of request by the University President to, and acceptance by, the Secretary of the Finance and Administration Cabinet. The letter shall include an affirmation of the University's intent to proceed with the issuance of Agency bonds prior to submitting its budget request for the 2006-2008 biennium. Full access to the state bond funds may be made available to the project upon the approval by the Secretary of the Finance and Administration Cabinet of a plan of action submitted by the University, including a financial plan and timeline for the issuance of the Agency bonds, at any time prior to November 15, 2005.

003.	Construct Gatton Building Complex - Design		
	Restricted Funds	4,500,000	-0-
004.	Construct Law School Building - Design		
	Restricted Funds	4,000,000	-0-
005.	Purchase/Renovate Facility for College of Design		
	Restricted Funds	16,528,000	-0-
006.	Construct LCC Classroom/Class Lab Building		
	Bond Funds	28,855,000	-0-
007.	Construct Digital Technologies Building - Design		
	Restricted Funds	3,000,000	-0-
008.	Expand Plant, Soil & Envir. Sci. Facil. - Design		
	Restricted Funds	1,500,000	-0-
009.	Expand Chemistry-Physics Building Design		
	Restricted Funds	5,500,000	-0-
010.	Expand & Upgrade Livestock Disease Diag. Center		
	Restricted Funds	8,500,000	-0-
011.	Construct Bio-Medical Research Building Design		
	Restricted Funds	6,000,000	-0-
012.	Construct Early Childhood Development/Family Center		
	Restricted Funds	9,956,000	-0-
013.	Expand KGS Well Sample & Core Repository		
	Restricted Funds	3,759,000	-0-
014.	Renovate Sections of Funkhouser		
	Restricted Funds	4,923,000	-0-
015.	Construct Student Health Facility		
	Restricted Funds	21,801,000	-0-
016.	Improve Life Safety, Project Pool		
	Restricted Funds	5,290,000	-0-
017.	Improve Plant - Capital Renewal Pool		
	Restricted Funds	15,000,000	-0-
018.	Upgrade Fume Hoods TH Morgan - Life Safety		
	Restricted Funds	2,738,000	-0-
019.	Upgrade Fume Hoods Research #3 - Life Safety		
	Restricted Funds	4,825,000	-0-
020.	Upgrade HVAC - CAER Ph. III Life Safety		
	Restricted Funds	475,000	-0-
021.	Upgrade Pharm. Fume Hood I - Life Safety		
	Restricted Funds	4,300,000	-0-
022.	Improve IAQ - Phase I - Life Safety		
	Restricted Funds	500,000	-0-
023.	Abate Asbestos LC II - Life Safety		
	Restricted Funds	500,000	-0-

024.	Improve Accessibility Project Pool		
	Restricted Funds	437,000	-0-
025.	Renovate Running Track		
	Restricted Funds	2,500,000	-0-
026.	Lease Purchase High Performance Research Comp.		
	Restricted Funds	6,500,000	-0-
027.	Construct Medical Center Education Building		
	Restricted Funds	27,000,000	-0-
028.	Construct Environmental Institute		
	Restricted Funds	14,287,000	-0-
029.	Expand/Renovate Art Museum in Singletary Center		
	Restricted Funds	10,075,000	-0-
030.	Upgrade Pilot - Scale Mineral Process Facility		
	Restricted Funds	500,000	-0-
031.	Lease Purchase Large Scale Computing		
	Restricted Funds	3,500,000	-0-
032.	Renovate COHR Space in the Dental Building		
	Restricted Funds	1,875,000	-0-
033.	Expand CAER Laboratories		
	Restricted Funds	3,833,000	-0-
034.	Lease Purchase Enterprise Storage System		
	Restricted Funds	1,200,000	-0-
035.	Lease Purchase UPS System		
	Restricted Funds	800,000	-0-
036.	Upgrade Electric & Lighting in Guignol Theatre		
	Restricted Funds	890,000	-0-
037.	Lease Purchase Campus Infrastructure Upgrade		
	Restricted Funds	3,500,000	-0-
038.	Lab Security Systems Project Pool		
	Restricted Funds	500,000	-0-
039.	Renovate 3rd Floor Little Library		
	Restricted Funds	2,200,000	-0-
040.	Install Emergency Generator in Computing Facility		
	Restricted Funds	425,000	-0-
041.	Renovate Med. Center Library		
	Restricted Funds	5,500,000	-0-
042.	Renovate King Library South - 1930 Section		
	Restricted Funds	17,901,000	-0-
043.	Land Acquisition Pool		
	Restricted Funds	15,000,000	-0-
044.	Renovate Practice Instruction Space in Pharmacy		
	Restricted Funds	3,200,000	-0-
045.	Lease Purchase Apartment Complex		
	Restricted Funds	11,000,000	-0-
046.	Renovate Outpatient Clinic in Kentucky Clinic		
	Restricted Funds	2,237,000	-0-
047.	Replace Air Handling Units Central Computing Facility		
	Restricted Funds	510,000	-0-

048.	Renovate Graduate Edu. & Research Space in Nursing		
	Restricted Funds	1,600,000	-0-
049.	Renovate Bowman Hall		
	Restricted Funds	8,221,000	-0-
050.	Construct New Housing		
	Restricted Funds	49,991,000	-0-
051.	Renovate Reynolds Building		
	Restricted Funds	12,310,000	-0-
052.	Lease Purchase Data Warehouse		
	Restricted Funds	600,000	-0-
053.	Purchase Server/Workstation for Software		
	Restricted Funds	400,000	-0-
054.	Renovate Taylor Education Building		
	Restricted Funds	17,864,000	-0-
055.	Construct Parking Structure - Central Campus		
	Restricted Funds	17,000,000	-0-
056.	Construct Parking Structure - North Campus		
	Restricted Funds	25,248,000	-0-
057.	Renovate Kastle Hall		
	Restricted Funds	8,269,000	-0-
058.	Lease-Purchase Tape Library		
	Restricted Funds	500,000	-0-
059.	Expand Grehan Journalism Building		
	Restricted Funds	12,740,000	-0-
060.	Construct New Alumni Center		
	Restricted Funds	15,250,000	-0-
061.	Expand Animal Science Research Center Phase II		
	Restricted Funds	23,184,000	-0-
062.	Renovate Central Computing Facility		
	Restricted Funds	2,360,000	-0-
063.	Renovate Koinonia House		
	Restricted Funds	1,950,000	-0-
064.	Lease-Purchase Fire Suppression Upgrade		
	Restricted Funds	850,000	-0-
065.	Renovate Slone Building		
	Restricted Funds	7,993,000	-0-
066.	Purchase Police Communications Equipment		
	Restricted Funds	571,000	-0-
067.	Purchase Upgraded Integrated Library System		
	Restricted Funds	700,000	-0-
068.	Lease Purchase Network Security Hardware		
	Restricted Funds	1,500,000	-0-
069.	Fit-up Education Space in Health Science Building		
	Restricted Funds	1,000,000	-0-
070.	Replace Steam and Condensate Pipe		
	Restricted Funds	5,000,000	-0-
071.	Replace Air Handling Units in Research #1		
	Restricted Funds	950,000	-0-

072.	Lease Purchase Telephone Switch Convergence		
	Restricted Funds	12,000,000	-0-
073.	Upgrade Elevator Controls in Nursing Building		
	Restricted Funds	600,000	-0-
074.	Purchase Digital Media Distribution System		
	Restricted Funds	186,000	-0-
075.	Renovate School of Public Health Building		
	Restricted Funds	3,751,000	-0-
076.	Replace Nutter Football Field		
	Restricted Funds	2,000,000	-0-
077.	Memorial Coliseum Expansion		
	Restricted Funds	25,500,000	-0-
078.	Renovate Commonwealth Stadium Concrete		
	Restricted Funds	2,500,000	-0-
079.	Lease Purchase Unix Cluster		
	Restricted Funds	600,000	-0-
080.	Upgrade Network for Software		
	Restricted Funds	250,000	-0-
081.	Purchase Integrated Imaging System		
	Restricted Funds	130,000	-0-
082.	Lease Purchase Video Switch Expansion		
	Restricted Funds	250,000	-0-
083.	Replace Law Building Marble Facade		
	Restricted Funds	838,000	-0-
084.	Construct Multi-Care Clinic Building		
	Restricted Funds	20,500,000	-0-
085.	Purchase Network Infrastructure Restructuring		
	Restricted Funds	160,000	-0-
086.	Lease Purchase UPS Upgrade for Communications		
	Restricted Funds	800,000	-0-
087.	Expand Patient Parking in Structure #3		
	Restricted Funds	7,000,000	-0-
088.	Purchase GIS Remote Sensing Teaching Lab		
	Restricted Funds	160,000	-0-
089.	Replace Central Facilities Management System		
	Restricted Funds	3,000,000	-0-
090.	Renovate Photography Space in Nursing Building		
	Restricted Funds	650,000	-0-
091.	Replace Chemistry Physics Ductwork		
	Restricted Funds	2,000,000	-0-
092.	Fit-up 4th Floor BBSRB		
	Restricted Funds	3,265,000	-0-
	Federal Funds	7,735,000	-0-
	TOTAL	11,000,000	-0-
093.	Replace Central Fire Alarm System		
	Restricted Funds	2,500,000	-0-
094.	Upgrade the Vivarium in Sanders Brown Building		
	Restricted Funds	2,000,000	-0-

	Federal Funds	2,000,000	-0-
	TOTAL	4,000,000	-0-
095.	Purchase Redundant Disk Server System		
	Restricted Funds	170,000	-0-
096.	Renovate Substation #2		
	Restricted Funds	2,780,000	-0-
097.	Renovate Labs in the Pharmacy Building		
	Restricted Funds	2,000,000	-0-
	Federal Funds	2,000,000	-0-
	TOTAL	4,000,000	-0-
098.	Improve Central Heating Plant		
	Restricted Funds	4,000,000	-0-
099.	Construct Regional BL3/BL4 Facility		
	Federal Funds	50,000,000	-0-
100.	Renovate Facade - Agriculture Building North		
	Restricted Funds	4,000,000	-0-
101.	Improve Storm Sewer Funkhouser		
	Restricted Funds	1,103,000	-0-
102.	Purchase Instructional Video Studio		
	Restricted Funds	250,000	-0-
103.	Guaranteed Energy Performance Project		
104.	Install Chilled Water Pipe-Clg 2 to Pit		
	Restricted Funds	1,500,000	-0-
105.	Install Cooling Secondary Pumping		
	Restricted Funds	2,500,000	-0-
106.	Renovate Animal Facility in Tobacco & Health Building		
	Restricted Funds	1,500,000	-0-
107.	Replace Cooling Plant Chillers		
	Restricted Funds	6,000,000	-0-
108.	Renovate Imaging Center at KY Clinic		
	Restricted Funds	2,000,000	-0-
109.	Replace Master Clock and Bell System		
	Restricted Funds	1,500,000	-0-
110.	Expand Ophthalmology Clinic in Med. Plaza		
	Restricted Funds	582,000	-0-
111.	Repair Concrete Phase I General Campus		
	Restricted Funds	750,000	-0-
112.	Renovate Imaging Center I		
	Restricted Funds	530,000	-0-
113.	Repair Blacktop Phase I General Campus		
	Restricted Funds	750,000	-0-
114.	Renovate Research Labs in Med. Center, III		
	Restricted Funds	1,000,000	-0-
115.	Upgrade Electrical Substation		
	Restricted Funds	4,000,000	-0-
116.	Renovate Education Space in Med. Science		
	Restricted Funds	2,300,000	-0-
117.	Installed Chilled Water Pipe to South Campus		

	Restricted Funds	5,000,000	-0-
118.	Renovate Research Labs in Med. Center, I		
	Restricted Funds	750,000	-0-
119.	Install Chilled Water Additions General Campus		
	Restricted Funds	1,000,000	-0-
120.	Renovate Imaging Center, II		
	Restricted Funds	530,000	-0-
121.	Purchase Shared Desktop Environment		
	Restricted Funds	250,000	-0-
122.	Install Med. Center Chilled Water Loop		
	Restricted Funds	700,000	-0-
123.	Renovate Research Labs in Medical Center, IV		
	Restricted Funds	1,250,000	-0-
124.	Replace High Voltage Wiring		
	Restricted Funds	775,000	-0-
125.	Renovate Research Labs in Med. Center, II		
	Restricted Funds	900,000	-0-
126.	Replace McVey Hall HVAC		
	Restricted Funds	3,000,000	-0-
127.	Renovate Research Space Med. Center, I		
	Restricted Funds	1,500,000	-0-
128.	Replace Mathews Building HVAC		
	Restricted Funds	1,000,000	-0-
129.	Replace HVAC Slone Building		
	Restricted Funds	2,320,000	-0-
130.	Replace HVAC Kastle Hall		
	Restricted Funds	3,000,000	-0-
131.	Replace Fine Arts HVAC		
	Restricted Funds	3,000,000	-0-
132.	Replace Three Elevators MI King South		
	Restricted Funds	975,000	-0-
133.	Renovate Barker Hall		
	Restricted Funds	5,060,000	-0-
134.	Add Centralized Emergency Generator		
	Restricted Funds	5,034,000	-0-
135.	Upgrade Communication Infrastructure, II		
	Restricted Funds	450,000	-0-
136.	Expand Plant Capacity Infrastructure		
	Restricted Funds	23,000,000	-0-
137.	Renovate Teaching Space in Med. Plaza		
	Restricted Funds	500,000	-0-
138.	Install HVAC in Keeneland Hall		
	Restricted Funds	5,109,000	-0-
139.	Renovate Faculty Office Space in Med. Center		
	Restricted Funds	500,000	-0-
140.	Replace Holmes Elevator		
	Restricted Funds	641,000	-0-
141.	Renovate Foundation Offices in MRISC Building		

	Restricted Funds	500,000	-0-
142.	Install Commons Elevator		
	Restricted Funds	400,000	-0-
143.	Renovate Breast Clinic in MRISC Building		
	Restricted Funds	520,000	-0-
144.	Renovate Vivarium in Central DLAR Facility		
	Restricted Funds	1,000,000	-0-
	Federal Funds	1,000,000	-0-
	TOTAL	2,000,000	-0-
145.	Renovate Vivarium in Combs Building		
	Restricted Funds	300,000	-0-
	Federal Funds	300,000	-0-
	TOTAL	600,000	-0-
146.	Renovate Safety & Security Building		
	Restricted Funds	1,645,000	-0-
147.	Renovate DLAR General Offices in Med. Center		
	Restricted Funds	400,000	-0-
148.	Lease Purchase UK/UofL/Frankfort Research Network		
	Restricted Funds	6,000,000	-0-
149.	Lease Purchase ERP System		
	Restricted Funds	10,000,000	-0-
150.	Purchase Compressed Video-Hazard		
	Restricted Funds	141,000	-0-
151.	Renovate Erikson Hall		
	Restricted Funds	6,001,000	-0-
152.	Expand West Kentucky Research and Education Center		
	Restricted Funds	4,000,000	-0-
153.	Renovate Bradley Hall		
	Restricted Funds	5,216,000	-0-
154.	Purchase Digital Education Equipment		
	Restricted Funds	1,900,000	-0-
155.	Construct Gluck Equine Res. Ctr. - Phase I		
	Restricted Funds	29,835,000	-0-
156.	Addition to Lafferty Hall		
	Restricted Funds	5,195,000	-0-
157.	Upgrade Sound and Lighting for Singletary Center		
	Restricted Funds	680,000	-0-
158.	Upgrade Comm Infrastructure in Young Library		
	Restricted Funds	2,601,000	-0-
159.	Construct Horticultural Research and Education F		
	Restricted Funds	1,600,000	-0-
160.	Expand Erikson Hall		
	Restricted Funds	18,741,000	-0-
161.	Purchase Patient Classification Equipment		
	Restricted Funds	260,000	-0-
162.	Construct UK Paducah Engineering Research Center		
	Restricted Funds	1,000,000	-0-
163.	Purchase Telemedicine Rural Health		

	Restricted Funds	416,000	-0-
164.	Construct KY Transportation Center Building		
	Restricted Funds	20,699,000	-0-
	Federal Funds	2,500,000	-0-
	TOTAL	23,199,000	-0-
165.	Construct University Conference Center		
	Restricted Funds	19,605,000	-0-
166.	Replace Steam Line MC Htg. - Hosp. Drive Pit 2		
	Restricted Funds	1,180,000	-0-
167.	Replace Steam Line Lime Tunnel - Main Gate Pit		
	Restricted Funds	1,690,000	-0-
168.	Replace Steam Line Lime Tunnel - POT Tunnel		
	Restricted Funds	730,000	-0-
169.	Install Steam Line BBSRB - Old Main Gate Pit		
	Restricted Funds	4,130,000	-0-
170.	Replace Steam Line Main Gate Pit -Anderson Pit		
	Restricted Funds	1,530,000	-0-
171.	Replace Steam Line Kastle - Chem./Phys Pit 28		
	Restricted Funds	740,000	-0-
172.	Install Pollution Controls		
	Restricted Funds	1,740,000	-0-
173.	Kentucky Utilities Building - Lease		
174.	College of Medicine Off-Campus Clinic - Lease		
175.	College of Pharmacy-Contracted Program - Lease		
176.	Med. Center - Grant Projects - Lease		
177.	Med. Center Off-Campus Patient Facility - Lease		
178.	Med. Center Contract Sponsored Programs - Lease		
179.	Clinic Blazer Parkway - Lease		
180.	Expand Surgical Services - Hospital		
	Restricted Funds	3,531,000	-0-
181.	Create Universal Nursing Unit-Hospital		
	Restricted Funds	964,000	-0-
182.	Construct Patient Bed Tower - Hospital		
	Restricted Funds	25,000,000	-0-
	Agency Bonds	25,000,000	-0-
	TOTAL	50,000,000	-0-
183.	Upgrade Outpatient Surgical Suite - Hospital		
	Restricted Funds	2,500,000	-0-
184.	Modify Nursing Unit XI - Hospital		
	Restricted Funds	1,160,000	-0-
185.	Modify Nursing Unit XII - Hospital		
	Restricted Funds	3,936,000	-0-
186.	Construct Imaging Facility - Hospital		
	Restricted Funds	10,035,000	-0-
187.	Upgrade Cancer Ctr. Radiologic Facility - Hospital		
	Restricted Funds	6,000,000	-0-
188.	Construct Cancer Urgent Treatment Facility - Hospital		
	Restricted Funds	10,562,000	-0-

189.	Upgrade Surgical Suite - Hospital		
	Restricted Funds	2,600,000	-0-
190.	Construct Radiation Medicine Facility - Hospital		
	Restricted Funds	6,047,000	-0-
191.	Upgrade Transport Systems V - Hospital		
	Restricted Funds	800,000	-0-
192.	Expand Operating Room Suites - Hospital		
	Restricted Funds	3,547,000	-0-
193.	Expand Parking Structure #4 - Hospital		
	Restricted Funds	3,620,000	-0-
194.	Upgrade Building/Site IV - Hospital		
	Restricted Funds	800,000	-0-
195.	Upgrade HVAC II - Hospital		
	Restricted Funds	3,500,000	-0-
196.	Construct Radiation Med. Facility II - Hospital		
	Restricted Funds	2,548,000	-0-
197.	Upgrade Utility Systems VI - Hospital		
	Restricted Funds	1,500,000	-0-
198.	Upgrade Operating Room Suites II - Hospital		
	Restricted Funds	12,162,000	-0-
199.	Replace AHU I - Hospital		
	Restricted Funds	15,553,000	-0-
200.	Replace AHU I - Roach		
	Restricted Funds	1,000,000	-0-
201.	Replace AHU II - Roach		
	Restricted Funds	1,000,000	-0-
202.	Construct Cancer Hospice Facility - Hospital		
	Restricted Funds	4,000,000	-0-
203.	Construct Cancer Education Facility - Hospital		
	Restricted Funds	2,000,000	-0-
204.	Construct Cancer Infusion Suites - Hospital		
	Restricted Funds	5,590,000	-0-
205.	Construct Remote Cancer Clinic - Hospital		
	Restricted Funds	12,500,000	-0-
206.	Construct Physicians Svcs. Facilities - Hospital		
	Restricted Funds	2,000,000	-0-
207.	Upgrade Emergency Services II - Hospital		
	Restricted Funds	12,000,000	-0-
208.	Upgrade Information Systems Svcs. - Hospital		
	Restricted Funds	3,467,000	-0-
209.	Upgrade Diagnostic Radiology - Hospital		
	Restricted Funds	3,000,000	-0-
210.	Renovate Dietetics - Hospital		
	Restricted Funds	6,000,000	-0-
211.	Upgrade Communication Svs. - Hospital		
	Restricted Funds	1,000,000	-0-
212.	Construct Business Facility II - Hospital		
	Restricted Funds	10,840,000	-0-

213.	Construct Outpt. Care Facility II - Hospital		
	Restricted Funds	8,148,000	-0-
214.	Construct Outpt. Diag./Treat Facility II - Hospital		
	Restricted Funds	17,545,000	-0-
215.	Construct Bldg. Connectors III - Hospital		
	Restricted Funds	3,047,000	-0-
216.	Construct Primary Care Center II - Hospital		
	Restricted Funds	13,017,000	-0-
217.	Construct Patient Care Facility II - Hospital		
	Restricted Funds	11,477,000	-0-
218.	Upgrade Nutrition Services II - Hospital		
	Restricted Funds	1,000,000	-0-
219.	Upgrade Support Services II - Hospital		
	Restricted Funds	1,000,000	-0-
220.	Expand Data Systems III - Hospital		
	Restricted Funds	700,000	-0-
221.	Implement Land Use Plan IV - Hospital		
	Restricted Funds	2,500,000	-0-
222.	Upgrade Diagnostic Services XII - Hospital		
	Restricted Funds	1,000,000	-0-
223.	Construct Outpatient Svs. III - Hospital		
	Restricted Funds	8,004,000	-0-
224.	Upgrade Diagnostic Services XI - Hospital		
	Restricted Funds	1,500,000	-0-
225.	Renovate Medical Records Suite I - Hospital		
	Restricted Funds	566,000	-0-
226.	Guaranteed Energy Savings Project		
227.	Purchase Patient System Enterprise		
	Restricted Funds	4,640,000	-0-
228.	Purchase Upgrade for Servers		
	Restricted Funds	800,000	-0-
229.	Purchase Upgrade - HIS Computing Facility		
	Restricted Funds	2,900,000	-0-
230.	Purchase Clinical System Enterprise		
	Restricted Funds	5,800,000	-0-
231.	Purchase Computing Infrastructure Update		
	Restricted Funds	2,500,000	-0-
232.	Purchase Data Storage Facility Upgrade		
	Restricted Funds	750,000	-0-
233.	Purchase Dig. Medical Record Expansion		
	Restricted Funds	4,640,000	-0-
234.	Purchase Managed Care Enterprise		
	Restricted Funds	1,160,000	-0-
235.	Purchase Data Storage Equipment & Software I		
	Restricted Funds	500,000	-0-
236.	Purchase Telecommunications Equipment I		
	Restricted Funds	250,000	-0-
237.	Purchase PACS Data Storage Equipment & Software		

	Restricted Funds	500,000	-0-
238.	Purchase IS Security Equipment I		
	Restricted Funds	150,000	-0-
239.	Purchase Data Center Printers I		
	Restricted Funds	350,000	-0-
240.	Purchase Data Storage Equipment & Software II		
	Restricted Funds	250,000	-0-
241.	Purchase Telecommunications Equipment II		
	Restricted Funds	200,000	-0-
242.	Purchase Mainframe Computer		
	Restricted Funds	400,000	-0-
243.	Purchase IS Security Equipment II		
	Restricted Funds	150,000	-0-
244.	Purchase Data Center Printers II		
	Restricted Funds	300,000	-0-
245.	Purchase Knowledge-based Transcription		
	Restricted Funds	450,000	-0-
246.	Purchase Knowledge-based Charting System		
	Restricted Funds	400,000	-0-
247.	Purchase Consumer Web Interaction System		
	Restricted Funds	400,000	-0-
248.	Purchase Data Storage Equipment & Software III		
	Restricted Funds	150,000	-0-
249.	Purchase Telecommunications Equipment III		
	Restricted Funds	150,000	-0-
9.	**UNIVERSITY OF LOUISVILLE**		
001.	Major Item of Equipment Pool		
	Restricted Funds	12,154,000	-0-
002.	Construct - HSC Research Facility, Phase III		
	Restricted Funds	12,000,000	-0-
	Bond Funds	19,000,000	-0-
	Agency Bonds	19,000,000	-0-
	TOTAL	50,000,000	-0-

(1) **Construct - HSC Research Facility, Phase III:** A portion of the General Fund supported bonds may be made available to the University for the above project prior to the issuance of the Agency bonds and after the submission of a letter of request by the University President to, and acceptance by, the Secretary of the Finance and Administration Cabinet. The letter shall include an affirmation of the University's intent to proceed with the issuance of Agency bonds prior to submitting its budget request for the 2006-2008. Full access to the state bond funds may be made available to the project upon the approval by the Secretary of the Finance and Administration Cabinet of a plan of action submitted by the University, including a financial plan and timeline for the issuance of the Agency bonds, at any time prior to November 15, 2005.

003.	Renovate - Capital Renewal Pool		
	Restricted Funds	13,746,000	-0-
004.	Renovate - Code Improvement Pool		
	Restricted Funds	3,191,000	-0-
005.	Guaranteed Energy Savings Project		
006.	Renovate - Shelby Campus Infrastructure		
	Restricted Funds	8,740,000	-0-
007.	Renovate - Student Serv. Bldg. - Houchens, Ph II		
	Restricted Funds	6,302,000	-0-
008.	Renovate - Medical Dental Res. Building, Phase IV		

	Restricted Funds	17,986,000	-0-
009.	Renovate - Chemistry Fume Hood Redesign, Ph II		
	Restricted Funds	4,198,000	-0-
010.	Expand - Oppenheimer Hall for Social Work		
	Reauthorization		
011.	Purchase - Digital Communications System		
	Restricted Funds	1,000,000	1,000,000
012.	Purchase - Networking System		
	Restricted Funds	1,500,000	1,500,000
013.	Renovate - Natural Science Building		
	Restricted Funds	11,890,000	-0-
014.	Purchase-CPU System		
	Restricted Funds	460,000	-0-
015.	Purchase - Enhanced Library System Software		
	Restricted Funds	250,000	-0-
016.	Purchase - PCs, Printers, Laptops		
	Restricted Funds	149,000	-0-
017.	Purchase - Third Street & Central Ave. Property		
	Restricted Funds	3,100,000	-0-
018.	Construct - U of L Baseball Stadium		
	Reauthorization ($5,900,000 Restricted Funds)		
019.	Construct - Basketball Facility and Office		
	Restricted Funds	8,500,000	-0-
020.	Purchase - Support Service Land (NE Quad)		
	Restricted Funds	4,632,000	-0-
021.	Purchase - Electronic Research Information System		
	Restricted Funds	1,080,000	-0-
022.	Renovate - Dental Clinics - First Floor		
	Restricted Funds	8,614,000	-0-
023.	Construct - Boathouse for Women's Rowing Program		
	Reauthorization ($2,488,000 Restricted Funds)		
024.	Purchase - Artificial Turf - Practice Field Facility		
	Restricted Funds	750,000	-0-
025.	Purchase - Computer Processing System		
	Restricted Funds	1,800,000	200,000
026.	Purchase - Storage System		
	Restricted Funds	600,000	400,000
027.	Purchase - Enterprise Application System		
	Restricted Funds	1,000,000	1,000,000
028.	Digital Output System		
	Restricted Funds	500,000	500,000
029.	Visualization System		
	Restricted Funds	500,000	500,000
030.	Construct - Res. Hall, 276 Beds, Ph. III, Com. Park		
	Restricted Funds	-0-	10,180,000
031.	Renovate - Medical School Tower-55A, Phase I		
	Restricted Funds	3,841,000	-0-
032.	Expand - Ambulatory Care Bldg. Academic Addition		

	Restricted Funds	39,872,000	-0-
033.	Purchase - Real Estate Near HSC & Ren. Offices		
	Restricted Funds	20,500,000	-0-
034.	Renovate & Purchase - Home of the Innocents Property		
	Restricted Funds	7,301,000	-0-
035.	Construct - Utilities, Remove Overhead Lines		
	Restricted Funds	-0-	2,957,000
036.	Renovate - Univ. Housing Capital Renewal, Ph. I		
	Restricted Funds	-0-	3,210,000
037.	Renovate - Housing - Capital Renewal Pool		
	Restricted Funds	2,476,000	-0-
038.	Renovate - Housing - Code Improvements Pool		
	Restricted Funds	709,000	-0-
039.	Construct - Diversity Center for Excellence		
	Restricted Funds	-0-	5,434,000
040.	Construct - HSC Parking Structure II		
	Restricted Funds	-0-	14,440,000
041.	Construct - Multipurpose Field House and Practice Facility		
	Restricted Funds	12,404,000	-0-
10.	**WESTERN KENTUCKY UNIVERSITY**		
001.	Math and Science Academy Renovation		
	Restricted Funds	3,500,000	-0-
	Bond Funds	2,500,000	-0-
	Agency Bonds	4,000,000	-0-
	TOTAL	10,000,000	-0-
002.	Renovate Science Campus - Phase II		
	Bond Funds	27,000,000	-0-
003.	Repair Mold/Moisture Damage		
	Restricted Funds	1,612,000	-0-
004.	Renovate Electrical Distribution - Phase V		
	Restricted Funds	3,747,000	-0-
005.	Renovate South Campus		
	Restricted Funds	11,500,000	-0-
006.	Renovate Central Heat Plant - Phase I		
	Reauthorization ($1,273,000 Restricted Funds)		
007.	Life Safety, Center for Research and Development		
	Restricted Funds	500,000	-0-
008.	Purchase Buses/Construct Bus Transportation Center		
	Restricted Funds	4,000,000	-0-
009.	Prepare IT Infrastructure		
	Restricted Funds	3,000,000	-0-
010.	Renovate Downing University Center - Phase III		
	Restricted Funds	7,000,000	-0-
011.	Guaranteed Energy Savings Project		
012.	Construct Radio and Television Transmission Tower		
	Restricted Funds	615,000	-0-
013.	Purchase Digital Television Transmission System		
	Reauthorization		

	014.	Purchase Property for Campus Expansion		
		Restricted Funds	3,000,000	-0-
	015.	Construct Academic-Athletic Performance Center		
		Restricted Funds	9,000,000	-0-
	016.	Acquire Video Server		
		Restricted Funds	800,000	-0-
	017.	Expand Campus Network - Phase II		
		Restricted Funds	785,000	-0-
	018.	Secure Network Log-On System		
		Restricted Funds	800,000	-0-
	019.	Replace Server		
		Reauthorization ($880,000 Restricted Funds)		
	020.	Construct Student Health Services Building		
		Restricted Funds	4,000,000	-0-
	021.	Center KY Regional Postsecondary Education Center, Phase II, Design		
		Restricted Funds	1,625,000	-0-
	022.	Renovate Grise Hall - Design		
		Restricted Funds	1,398,000	-0-
	023.	Implement Wireless Communication System		
		Restricted Funds	2,000,000	-0-
	024.	Renovate Garrett Conference Center - Design		
		Reauthorization ($858,000 Restricted Funds)		
	025.	Renovate Academic Athletic #2, Design		
		Restricted Funds	2,000,000	-0-
11.	**KENTUCKY COMMUNITY AND TECHNICAL COLLEGE SYSTEM**			
	001.	Gateway CTC-Expand Edgewood Campus		
		Bond Funds	14,070,000	-0-
		Restricted Funds	1,000,000	-0-
		TOTAL	15,070,000	-0-
	002.	Warren County Technology Center		
		Bond Funds	5,500,000	-0-
	003.	Capital Renewal and Deferred Maintenance Pool		
		Restricted Funds	5,240,000	-0-
	004.	Ashland Community Technology Center		
		Bond Funds	12,066,000	-0-
		Restricted Funds	1,000,000	-0-
		TOTAL	13,066,000	-0-
	005.	Construct Owensboro Advanced Technology Center		
		Bond Funds	13,088,000	-0-
		Other Funds	1,000,000	-0-
		TOTAL	14,088,000	-0-
	006.	Construct Technology Building, Madisonville CC		
		Restricted Funds	5,000,000	-0-
		Bond Funds	7,000,000	-0-
		TOTAL	12,000,000	-0-
	007.	Construct Franklin/Simpson Technology Center		
		Bond Funds	4,000,000	-0-
	008.	Renovate Aircraft Maintenance Lab, Somerset CC, South Campus		

	Bond Fund	1,500,000	-0-
009.	KCTCS Information Tech Infrastructure Upgrade		
	Restricted Funds	12,000,000	-0-
010.	Renovate HVAC Syst. SE Campus, Owensboro C&TC		
	Restricted Funds	625,000	-0-
011.	Construct Area 9 Training Bldg. State Fire & Rescue		
	Restricted Funds	537,000	-0-
012.	Property Acquisition Pool		
	Restricted Funds	1,100,000	-0-
013.	Install Sprinkler Systems, West Ky. C&TC		
	Restricted Funds	600,000	-0-
014.	Repairs to Allied Health Bldg. West Ky. C&TC		
	Restricted Funds	750,000	-0-
015.	Renovate HVAC System - Strunk Bldg. Somerset CC		
	Restricted Funds	894,000	-0-
016.	Renovate HVAC System - Meece Bldg. Somerset CC		
	Restricted Funds	859,000	-0-
017.	Purchase Diagnostic Medical Sonography Unit		
	Restricted Funds	110,000	-0-
018.	Guaranteed Energy Savings Project		
019.	Henderson CC Lease for Applied Technology Program		
020.	Jefferson CC - Jefferson Education Center Lease		
021.	System Office Lease Purchase		

K. TRANSPORTATION CABINET

Budget Units		**2004-05**	**2005-06**
1.	**GENERAL ADMINISTRATION AND SUPPORT**		
001.	Overhead Doors and Emergency Repair		
	Road Fund	200,000	200,000
002.	Construction or Repair Salt Structure		
	Road Fund	250,000	250,000
003.	Remove Hazardous Materials		
	Road Fund	50,000	50,000
004.	Building Renovation and Emergency Repairs		
	Road Fund	420,000	420,000
005.	Pro. Management (PRECON/6 YR Plan)		
	Road Fund	2,000,000	-0-
006.	Construct Louisville District Office		
	Road Fund	5,950,000	-0-
007.	Address Water and Wastewater		
	Road Fund	100,000	100,000
008.	Painting and Roof Repair or Replacement		
	Road Fund	219,000	218,000
009.	Road Maintenance Parks		
	Road Fund	1,500,000	1,500,000
010.	Conduct Paving and Landscaping		
	Road Fund	50,000	50,000
011.	Repair Loadometer and Rest Areas		
	Road Fund	460,000	460,000

012.	Various Environmental Compliance		
	Road Fund	1,000,000	1,000,000

PART III

GENERAL PROVISIONS

1. **Funds Designations and Sources:** Restricted Funds designated in the biennial budget bills are classified in the state financial records and reports as the Agency Revenue Fund, State Enterprise Funds (State Parks, State Fair Board, Insurance Administration, and Kentucky Horse Park), Internal Services Funds (Fleet Management, Computer Services, Correctional Industries, Central Printing, Risk Management, and Property Management), and selected Fiduciary Funds (Other Expendable Trust Funds). Separate funds records and reports shall be maintained in a manner consistent with the branch budget bills.

The sources of Restricted Funds appropriations in this Act shall include all fees (which includes fees for room and board, athletics, and student activities) and rentals, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, contributions, income from investments, and other miscellaneous receipts produced or received by a budget unit, except as otherwise specifically provided, for the purposes, use, and benefit of the budget unit as authorized by law. Restricted Funds receipts shall be credited and allotted to the respective fund or account out of which a specified appropriation is made in this Act. All receipts of Restricted Funds shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

The sources of Federal Funds appropriations in this Act shall include federal subventions, grants, contracts, or other Federal Funds received, income from investments, and other miscellaneous federal receipts received by a budget unit, the Unemployment Compensation Fund, except as otherwise provided, for the purposes, use, and benefit of the budget unit as authorized by law. Federal Funds receipts shall be credited and allotted to the respective fund account out of which a specified appropriation is made in this Act. All Federal Funds receipts shall be deposited in the State Treasury and credited to the proper account as provided in KRS Chapters 12, 42, 45, and 48.

2. **Expenditure of Excess Restricted Funds or Federal Funds Receipts:** If receipts received or credited to the Restricted Funds accounts or Federal Funds accounts of a budget unit during fiscal year 2004-2005 or fiscal year 2005-2006, and any balance forwarded to the credit of these same accounts from the previous fiscal year, exceed the appropriation made by specific sum for these accounts of the budget unit as provided in Part I, Operating Budget, of this Act, for the fiscal year in which the excess occurs, the excess funds in the accounts of the budget unit shall become available for expenditure for the purpose of the account during the fiscal year only upon compliance with the conditions and procedures specified in KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810 and this Act, and with the authorization of the State Budget Director and approval of the Secretary of the Finance and Administration Cabinet.

Prior to authorizing the appropriation of any excess, unbudgeted Restricted Funds pursuant to this section, the State Budget Director and the Secretary of the Finance and Administration Cabinet shall review the adequacy of the General Fund Surplus Account with respect to its availability to support Necessary Government Expenses. In the event that General Fund Surplus Account moneys are determined by this review to be adequate to meet known or anticipated Necessary Government Expenses during fiscal year 2004-2005 or fiscal year 2005-2006, respectively, then the appropriation increase may be approved. In the event that the review indicates that there are insufficient funds available or reasonably estimated to become available to the General Fund Surplus Account to meet known or projected Necessary Government Expenses for the fiscal years enumerated above, the State Budget Director, with the concurrence of the Secretary of the Finance and Administration Cabinet, may disapprove the request for additional Restricted Funds expenditure authority and may direct the excess Restricted Funds identified to the General Fund Surplus Account in order to meet Necessary Government Expense obligations. The results of any review shall be reported to the Interim Joint Committee on Appropriations and Revenue in accordance with KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810.

Any request made by a budget unit pursuant to KRS 48.630 that relates to Restricted or Federal funds shall include documentation showing a comparative statement of revised estimated receipts by fund source and the proposed expenditures by proposed use, with the appropriated sums specified in the Budget of the Commonwealth, and statements which explain the cause, source, and use for any variances which may exist.

Each budget unit shall submit its reports in print and electronic format consistent with the Restricted Funds and Federal Funds records contained in the fiscal biennium 2004-2006 Branch Budget Request Manual and according to the following schedule in each fiscal year: (1) On or before the beginning of each fiscal year; (2) On or before October 1; (3) On or before January 1; and (4) On or before April 1.

3. **Appropriations Expenditure Purpose and Transfer Restrictions:** Funds appropriated in this Act shall not be expended for any purpose not specifically authorized by the General Assembly in this Act nor shall funds appropriated in this Act be transferred to or between any cabinet, department, board, commission, institution, agency, or budget unit of state government unless specifically authorized by the General Assembly in this Act and the provisions of KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810. Compliance with the provisions of this subsection shall be reviewed and determined by the Interim Joint Committee on Appropriations and Revenue.

4. **Permitted Appropriation Obligations:** No state agency, cabinet, department, office, or program shall incur any obligation against the General Fund or Road Fund appropriations contained in this Act unless the obligation may be reasonably determined to have been contemplated in the enacted budget and is based upon supporting documentation considered by the

General Assembly, legislative and executive records, and the statutory budget memorandum.

5. **Lapse of Funds Supplanted by Federal Funds:** Any General Fund or Road Fund appropriation made in anticipation of a lack, loss, or reduction of Federal Funds shall lapse to the General Fund or Road Fund Surplus Account, respectively, to the extent the Federal Funds otherwise become available.

6. **Federally Funded Agencies:** A state agency entitled to Federal Funds which would represent 100 percent of the cost of a program shall conform to KRS 48.730.

7. **Lapse of Excess Debt Service:** Pursuant to KRS 48.720, any excess General Fund or Road Fund debt service shall lapse to the respective surplus account unless otherwise directed in this Act.

8. **Interim Appropriation Increases:** No appropriation from any fund source shall exceed the sum specified in this Act until the agency has documented the necessity, purpose, use, and source, and the documentation has been submitted to the Interim Joint Committee on Appropriations and Revenue for its review and action in accordance with KRS 48.630. Proposed revisions to an appropriation contained in the enacted State/Executive Budget or allotment of an unbudgeted appropriation shall conform to the conditions and procedures of KRS 48.630 and this Act.

Notwithstanding KRS 48.630(3), (4), and (5), any proposed and recommended actions to increase appropriations for funds specified in Section 2 of this Part shall be scheduled consistent with the timetable contained in that section in order to provide continuous and timely budget information.

9. **Revision of Appropriation Allotments:** Allotments within appropriated sums for the activities and purposes contained in the enacted State/Executive Budget shall conform to KRS 48.610 and may be revised pursuant to KRS 48.605 and this Act.

10. **Continuing Appropriations:** All statutes and portions of statutes in conflict with any of the provisions of this section, to the extent of the conflict, are suspended unless otherwise provided by this Act.

11. **Construction of Budget Provisions on Prior Fiscal Year Appropriations and Statutory Budget Administration Powers and Duties:** Except as otherwise explicitly authorized by this Act, nothing in this Act shall be construed to repeal any appropriation made heretofore or hereafter for the fiscal year ending June 30, 2004, and nothing in this Act is to be construed as amending or altering the provisions of Chapters 42, 45, and 48 of the Kentucky Revised Statutes pertaining to the duties and powers of the Secretary of the Finance and Administration Cabinet except as otherwise provided in this Act.

12. **Interpretation of Appropriations:** All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which the appropriation may be expended shall be decided by the Secretary of the Finance and Administration Cabinet pursuant to KRS 48.500, and the decision of the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

13. **Publication of the Budget of the Commonwealth:** The State Budget Director shall cause the Governor's Office for Policy and Management, within 60 days of adjournment of the 2004 Regular Session of the General Assembly, to publish a final enacted budget document, styled the Budget of the Commonwealth, based upon the recommended Legislative Budget, State/Executive Budget and Judicial Budget as enacted by the 2004 Regular Session of the General Assembly as well as other Acts which contain appropriation provisions for the 2004-2006 fiscal biennium, and based upon supporting documentation and legislative records as considered by the 2004 Regular Session of the General Assembly, and the statutory budget memorandum. This document shall include, for each agency and budget unit, a consolidated budget summary statement of available regular and continuing appropriated revenue by fund source, corresponding appropriation allocations by program or subprogram as appropriate, budget expenditures by principal budget class and for the State/Executive Budget, and any other fiscal data and commentary considered necessary for budget execution by the Governor's Office for Policy and Management and oversight by the Interim Joint Committee on Appropriations and Revenue. The enacted State/Executive Budget shall be revised or adjusted only upon approval by the Governor's Office for Policy and Management as provided in each Part of this Act and by KRS 48.400, 48.500, 48.600, 48.605, 48.610, 48.620, 48.630, 48.700, 48.705, 48.710, 48.720, 48.730, 48.800, and 48.810, and upon review and action by the Interim Joint Committee on Appropriations and Revenue.

14. **State Financial Condition:** Pursuant to KRS 48.400, the State Budget Director shall monitor and report on the financial condition of the Commonwealth.

15. **Prorating Administrative Costs:** The Secretary of the Finance and Administration Cabinet is authorized to establish a system or formula or a combination of both for prorating the administrative costs of the Finance and Administration Cabinet, the Department of Treasury, and the Office of the Attorney General relative to the administration of programs in which there is joint participation by the state and federal governments for the purpose of receiving the maximum amount of participation permitted under the appropriate federal laws and regulations governing the programs. The receipts and allotments under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue prior to any transfer of funds.

16. **Construction of Budget Provisions Regarding Executive Reorganization Orders:** Nothing in this Act shall be construed to confirm or ratify, under KRS 12.027 or 12.028, any executive reorganization order unless the executive order was confirmed or ratified by appropriate amendment to the Kentucky Revised Statutes in an Act of the 2003 Regular Session of the General Assembly or another Act of the 2004 Regular Session of the General Assembly. If any executive reorganization order issued from sine die adjournment of the 2003 Regular Session to sine die adjournment of the 2004 Regular Session was not confirmed by the 2004 Regular Session of the General Assembly, the Secretary of the Finance and Administration Cabinet shall,

in consultation with agency heads and with notification to the Legislative Research Commission, transfer the balance of funds for any affected program or function for fiscal year 2003-2004 and any related appropriations and funds for each of the next two fiscal years from the budget unit in which the program or function was placed by the executive reorganization order to the budget unit in which the program or function resided prior to the reorganization action or in which it was placed by action of the 2004 Regular Session of the General Assembly.

17. **Employer Retirement Contribution Rate:** Notwithstanding KRS 61.565, the employer contribution rate for any entity participating in the Kentucky Employees Retirement System shall be as follows: from July 1, 2004, through June 30, 2005, the contribution rates shall be no more than 5.89 percent for nonhazardous duty employees, 18.84 percent for hazardous duty employees, and 21.58 percent for employees of the State Police Retirement System. From July 1, 2005, through June 30, 2006, the employer contribution rate shall be no more than 5.89 percent for nonhazardous duty employees, 18.84 percent for hazardous duty employees, and 21.58 percent for employees of the State Police Retirement System.

18. **Budget Planning Report:** By August 15, 2005, the State Budget Director, in conjunction with the Consensus Forecasting Group, shall provide to each branch of government, pursuant to KRS 48.117, a budget planning report.

19. **Tax Expenditure Revenue Loss Estimates:** By October 15, 2005, the Office of State Budget Director shall provide to each branch of government detailed estimates for the General Fund and Road Fund for the current and next two fiscal years of the revenue loss effected by tax expenditures. The Department of Revenue shall provide assistance and furnish data which is not restricted by KRS 131.190. "Tax expenditure" means an exemption, exclusion, or deduction from the base of a tax, a credit against the tax, a deferral of a tax, or a preferential tax rate. The estimates shall include for each tax expenditure the amount of revenue loss, a citation of the legal authority for the tax expenditure, the year in which it was enacted, and the tax year in which it became effective.

20. **Duplicate Appropriations:** Any appropriation item and sum in Parts I to X of this Act and in an appropriation provision in another Act of the 2004 Regular Session which constitute a duplicate appropriation shall be governed by KRS 48.312.

21. **Priority of Individual Appropriations:** KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

22. **Severability of Budget Provisions:** Appropriation items and sums in Parts I to X of this Act shall conform to KRS 48.311. If any section, any subsection, or any provision is found by a court of competent jurisdiction in a final, unappealable order to be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

23. **Unclaimed Lottery Prize Money:** For fiscal year 2004-2005 and fiscal year 2005-2006, all unclaimed lottery prize money under KRS 154A.110(3) shall be credited to the Student Financial Aid and Advancement Trust Fund to be held as a subsidiary account for the purpose of funding the Kentucky Excellence in Education Scholarship (KEES) Program as appropriated in this Act. Upon the effective date of this Act, the balance of funds in the KEES Program Reserve Account as established by 2003 Ky. Acts ch. 156, Part III, section 24., shall be transferred to the KEES Reserve subsidiary account of the Student Financial Aid and Advancement Trust Fund. If the Kentucky Higher Education Assistance Authority certifies to the State Budget Director that the appropriations in this Act for the KEES Program under the existing award schedule are insufficient to meet funds required for eligible applicants, then the State Budget Director shall provide the necessary allotment of funds in the balance of the Subsidiary Account to fund the KEES Program. Actions taken under this section shall be reported to the Interim Joint Committee on Appropriations and Revenue on a timely basis.

24. **Technology Trust Fund:** The Technology Trust Fund is the Technology Trust Fund established by 1996 Ky. Acts ch. 380, Part X, to empower Kentucky state government through technology and redesigned business systems, and additional amounts made available and appropriated to it by the 1998 Regular Session in House Bill 321 (1998 Ky. Acts ch. 615, Part X).

Appropriations allotted from the Technology Trust Fund for each project, initiative, or system, as well as all other associated resources made available from regular appropriations for the same purpose from a budget unit shall be transferred and credited to, and accounted for and expended from, a discrete account established for the individual project, initiative, or system item. In addition to the General Fund appropriations for the Technology Trust Fund, Restricted Funds, Federal Funds, the Road Fund, private funds, and any matching fund appropriations required are appropriated in support of the projects and priorities previously identified by the Empower Kentucky Steering Committee. However, notwithstanding KRS 45.760(14), 45.770, 45.780, and 45.800, no funds from the Emergency Repair, Maintenance, and Replacement Account shall be used for Technology Trust Fund projects, systems, or initiatives.

25. **General Fund and Road Fund Budget Reduction Plans and Orders:** The General Assembly acknowledges that during fiscal year 2003-2004 the General Fund revenues were less than the enacted estimates pursuant to KRS 48.120(3) and that the 2002 General Assembly had enacted the legislative branch budget bill in 2002 Ky. Acts ch. 172 and the 2003 General Assembly had enacted the executive and judicial branch budget bills in 2003 Ky. Acts chs. 156 and 14 as contained in the Appendices to KRS Chapter 47 based upon the anticipated revenue estimates.

The 2003 General Assembly enacted the 2002-2004 biennium General Fund Budget Reduction Plan for fiscal year 2003-2004 in 2003 Ky. Acts ch. 156 Part VI, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the heads of the executive, judicial, and legislative branches shall revise and reduce appropriations and allotments and other deficit alleviation actions for their respective branch budget units under KRS 48.130(4).

Notwithstanding KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised General Fund appropriation levels for the budget units of the Executive Branch identified in General Fund Budget Reduction Order 04-01 and confirms and enacts the advances, transfers, and lapses to the General Fund of non-General Fund moneys identified in General Fund Budget Reduction Order 04-01.

The 2003 General Assembly enacted the 2002-2004 biennium Road Fund Budget Reduction Plan for fiscal year 2003-2004 in 2003 Ky. Acts ch. 156, Part VII, for state government pursuant to KRS 48.130(1) and (3). These statutes and Acts provide direction and authority by which the head of the Executive Branch shall revise and reduce appropriations and allotments and other deficit alleviation actions for the Executive Branch budget units under KRS 48.130(4).

Notwithstanding KRS 48.130 and 48.600, the General Assembly confirms, adopts, and enacts the revised Road Fund appropriation levels for the budget units of the Executive Branch identified in Road Fund Budget Reduction Order 04-01 and confirms and enacts the advances, transfers, and lapses to the Road Fund of non-Road Fund moneys identified in Road Fund Budget Reduction Order 04-01.

26. **State Purchases of Motor Vehicle Liability Insurance:** Notwithstanding any provision of the Kentucky Revised Statutes, to the extent that any governmental agency purchases motor vehicle liability insurance, sovereign immunity shall be waived to the extent of the insurance coverage.

27. **Use Tax on Sales of Printing or Direct Mail Advertising Materials:** Notwithstanding KRS 139.340, a commercial printer or mailer engaged in business in this state shall not be required to collect use tax on sales of printing or direct mail advertising materials that are both printed out of state and delivered out of state to the United States Postal Service for mass mailing to third-party Kentucky residents who are not purchasers of the advertising materials if the commercial printers or mailers:

(a) Maintain records relating to these sales to assist in the collection of the use tax owed; and

(b) File reports as provided in KRS 139.730 if requested by the Revenue Cabinet.

If the commercial printer or mailer complies with these reporting provisions, the purchaser of the printing or direct mail advertising materials described in this section shall have sole responsibility for payment of the use tax imposed in KRS 139.310.

28. **Excess Tobacco Master Settlement Agreement Funds:** Notwithstanding KRS 248.654, all Master Settlement Agreement - Phase I payments in excess of the amounts appropriated in Part I of this Act shall be retained in the General Fund.

29. **Cigarette Tax Evidence Compensation:** Notwithstanding KRS 138.146(4), after June 30, 2003, the compensation allowed shall be equal to $0.15 face value for each $3 of cigarette tax evidence purchased at face value.

30. **Sales and Use Tax Collection and Remittance Compensation:** Notwithstanding KRS 139.570, after June 30, 2003, the total reimbursement allowed shall not exceed $1,500. Notwithstanding KRS 139.250 or 139.700, after the effective date of this Act, separate permit numbers for a taxpayer with different business locations shall not be issued.

31. **Abandoned Property Receipts/General Fund:** Notwithstanding KRS 393.015, all abandoned property receipts collected, net of claims paid, in fiscal years 2004-2005 and 2005-2006 shall be available for appropriation in the General Fund.

32. **Reallocation of Appropriations Among Budget Units:** The Executive Branch shall implement appropriate actions necessary to operate within the appropriations authorized in this Act. The General Assembly recognizes that Executive Branch agency heads may determine it to be necessary to modify the actual budget unit expenditure totals within each cabinet and agency in order to manage within the available resources provided in this Act in order to execute prescribed administrative and program directives. The Secretary of any cabinet, the Commissioner of the Department of Education, and other agency heads are authorized to request revisions or reallocations in appropriation authority among budget units under their administrative authority for the purpose of implementing this Act. Prior to requesting any reallocation between appropriation units, the Secretary of any cabinet, the Commissioner of the Department of Education, and other agency heads shall submit a request to the Office of State Budget Director to transfer General Fund authority within their respective cabinet or agency. Such requests shall specify the need for the transfer of the authority. Any transfers made under this section for any cabinet, agency, or the Department of Education shall result in no change to the total amount appropriated within that cabinet or agency. Any transfers made under this section shall be made pursuant to KRS 48.500 and shall be reported, in writing, to the Interim Joint Committee on Appropriations and Revenue at least 30 days prior to the proposed transfer.

PART IV

STATE SALARY/COMPENSATION AND EMPLOYMENT POLICY

1. **Maximum Filled Permanent Positions:** Notwithstanding KRS 18A.010(2), for the 2004-2006 fiscal biennium, the total number of filled permanent positions in the agencies of the Executive Branch is limited to the number authorized in the enacted State/Executive Budget of the Commonwealth for the 2004-2006 fiscal biennium. The provisions of this section do not apply to the employees of the General Assembly, the Legislative Research Commission, or the Court of Justice.

2. **Authorized Personnel Complement:** On July 1, 2004, the Department of Personnel shall establish a record of budgeted permanent and other equivalent positions based upon the enacted State/Executive Budget of the Commonwealth and any adjustments authorized by provisions in this Act. The total number of filled and vacant positions of full-time, part-time, and interim employees shall not exceed the authorized complements pursuant to this section. When an agency head certifies that an emergency employment situation exists for a limited time within a fiscal year, the State Budget Director may approve, and the Commissioner of Personnel may authorize, the employment of individuals in addition to the authorized complement for the

duration of the limited time period so authorized within the fiscal year. A copy of records, certifications, and actions authorized in this section shall be provided to the Interim Joint Committee on Appropriations and Revenue on a monthly basis.

3. **Cost-of-Living Adjustment:** Notwithstanding KRS 18A.355(1), a cost-of-living adjustment of one and one-half percent is provided in fiscal year 2004-2005 and three percent is provided in fiscal year 2005-2006 on the base salary or wages of each eligible state employee on their anniversary date.

4. **Employee Furloughs or Reductions in Hours:** The General Assembly declares that the financial condition of the Commonwealth requires the following fiscal policies to be implemented and administered during the 2004-2006 fiscal biennium:

a. For purposes of this section:

(1) "Appointing authority" means the agency head as defined in KRS 18A.005(1) and 151B.010(1);

(2) A "furlough" or "reduction in hours" means that an appointing authority may temporarily reduce the number of hours that an employee is scheduled to work within a pay period if the Budget Reduction Plan or cost savings contemplated in this Act are not achieved. In the case of an employee who is considered "salaried" or "exempt" from the coverage of the Fair Labor Standards Act, 29 U.S.C. sec. 201, et seq., the length of a furlough shall not be less than a work week;

(3) A "lack of funds" means an appointing authority has a current or projected deficiency of funding to maintain current, or to sustain projected, levels of staffing and operations; and

(4) A "lack of work" means an operating authority has a current or projected decrease in the workload, which requires a reduction of current or projected staffing levels.

b. Notwithstanding any other provision of law, an appointing authority, with the approval of the Commissioner of the Department of Personnel or, in the case of employees governed by KRS Chapter 151B, the Kentucky Technical Education Personnel Board, may temporarily reduce the hours of work assigned to employees due to:

(1) Lack of work;

(2) Seasonal changes in demand for services; or

(3) A current or projected deficiency of funding necessary to maintain current, or to sustain projected, levels of staffing and operations.

c. An employee whose hours of work are temporarily reduced by the appointing authority pursuant to this section shall be notified in writing of the reduced schedule of work, the reasons for the reduction, and the reasons for the employee's selection.

d. Notwithstanding any other provision of law, an employee whose hours of work are temporarily reduced by the appointing authority pursuant to this section:

(1) Shall remain eligible for state-paid benefits during the temporary reduction of hours; and

(2) Shall not be entitled to appeal the reduction to the Personnel Board or, in the case of employees governed by KRS Chapter 151B, the Kentucky Technical Education Personnel Board, unless the length of the furlough exceeds ten consecutive working days.

e. Whenever a furlough is necessary, the appointing authority of an agency shall decide in which county or facility and within which classifications the furlough will occur, and the number of employees to be furloughed within each affected county, facility, or classification. The order of furlough shall be based on length of service and relative qualifications to perform the essential functions of any positions that remain in operation within the agency, county, or facility.

f. An employee subject to KRS Chapter 18A who has been furloughed for more than ten consecutive working days, and who believes that the furlough was unwarranted under the provisions of this section or that the appointing authority failed to properly apply the criteria established by this section in determining the order of furlough, may appeal to the Personnel Board within 30 days of the date the notice of furlough was mailed or delivered by the appointing authority. An employee shall not have the right to appear before the appointing authority prior to furlough. In all other respects, the provisions of KRS 18A.095 shall govern appeals based on furloughs.

g. An employee subject to KRS Chapter 151B who has been furloughed more than ten consecutive working days, and who believes that the furlough was unwarranted under the provisions of this section or that the appointing authority failed to properly apply the criteria established in this subsection in determining the order of furlough, may appeal to the Kentucky Technical Education Personnel Board within 30 days of the date the notice of furlough was mailed or delivered by the appointing authority. An employee shall not have the right to appear before the appointing authority prior to furlough. In all other respects, the provisions of KRS 151B.060 shall govern appeals based on furlough.

h. Notwithstanding any other provision of law, an employee participating in one of the state retirement systems who is furloughed to the extent of working less than 100 hours per month shall, upon return to regular hours, have the right to purchase service credit by paying the employee contributions on the difference between the creditable compensation that would have been paid had the employee not been furloughed and the actual compensation received for the period the employee was placed on furlough and worked less than 100 hours. If the employee elects to purchase service credit, the employing agency shall pay the employer contributions for the period purchased by the employee.

i. The Commissioner of the Department of Personnel shall promulgate an administrative regulation to implement a furlough program. The administrative regulation shall include a provision authorizing employees to elect to voluntarily participate in a furlough program.

PART V

FUNDS TRANSFER

The General Assembly finds that the financial condition of state government requires the following action.

Notwithstanding the requirements of the statutes set forth below, there is transferred from the Restricted Funds enumerated below to the General Fund the following amounts in fiscal year 2003-2004, fiscal year 2004-2005, and fiscal year 2005-2006.

		2003-2004	2004-05	2005-06
A.	**GOVERNMENT OPERATIONS**			
1.	**Personnel - General Operations**			
	Agency Revenue Fund	355,600	-0-	-0-
2.	**Personnel**			
	Flexible Spending Account (KRS 18A.225(2)(g))	-0-	-0-	1,500,000
3.	**Governor's Office of Agricultural Policy**			
	Agency Revenue Fund	4,000	-0-	-0-
4.	**Veterans' Affairs**			
	Agency Revenue Fund	306,700	-0-	-0-
5.	**Secretary of State**			
	Limited Liability Companies (KRS 14.140)	20,600	1,500,000	1,000,000
6.	**Board of Elections**			
	Agency Revenue Fund	2,900	-0-	-0-
7.	**Treasury - Unclaimed Property** (KRS 393.250(1))	20,500	-0-	-0-
8.	**Agriculture** 153,800 (KRS 217B.580, 248.290(2), 251.430, 260.650, 363.330, 363.906, and 438.335)	-0-	-0-	
9.	**Military Affairs**			
	Agency Revenue Fund	473,700	-0-	-0-
10.	**Local Government**			
	County Cemetery Fund (KRS 67.682)	35,100	-0-	-0-
11.	**Local Government Economic Development Fund** (KRS 42.4592)	-0-	-0-	2,860,200
12.	**Commission on Women**			
	Agency Revenue Fund	800	-0-	-0-
13.	**Registry of Election Finance**			
	Election Campaign Fund (KRS 121A.020)	500	700,000	-0-
14.	**Board of Emergency Medical Services** (KRS 311A.145)	5,000	-0-	-0-
15.	**Governmental Services Center**			
	Agency Revenue Fund	37,900	-0-	-0-
16.	**Kentucky River Authority**	86,400	-0-	-0-

	(KRS 151.720)			
17.	**Accountancy** 19,600	-0-	-0-	
	(KRS 325.250)			
18.	**Architects**			
	Agency Revenue Fund	6,500	-0-	-0-
	(KRS Chapter 323)			
19.	**Auctioneers** 9,300	-0-	-0-	
	(KRS 330.050 and 330.192)			
20.	**Barbering**	5,800	-0-	-0-
	(KRS 317.530)			
21.	**Chiropractic Examiners**	4,800	-0-	-0-
	(KRS 312.019)			
22.	**Dentistry**	12,600	-0-	-0-
	(KRS 313.350)			
23.	**Embalmers and Funeral Home Directors**			
	Agency Revenue Fund	6,200	-0-	-0-
	(KRS 316.125 and 316.210)			
24.	**Engineers and Land Surveyors**	33,900	-0-	-0-
	(KRS 322.420)			
25.	**Geologists**	25,000	-0-	-0-
	(KRS 322A.050)			
26.	**Hairdressers and Cosmetologists**	17,600	-0-	-0-
	(KRS 317A.050)			
27.	**Interpreters for Deaf and Hard of Hearing**	2,000	-0-	-0-
	(KRS 344.500 and 163.506)			
28.	**Landscape Architects**			
	Agency Revenue Fund	1,400	-0-	-0-
	(KRS Chapter 323)			
29.	**Marriage and Family Therapists**	3,000	-0-	-0-
	(KRS 335.342)			
30.	**Medical Licensure**	52,500	-0-	-0-
	(KRS 311.610)			
31.	**Nursing**	110,700	-0-	-0-
	(KRS 314.021 and 314.161)			
32.	**Ophthalmic Dispensers**	2,000	-0-	-0-
	(KRS 326.120)			
33.	**Optometric Examiners**	3,900	-0-	-0-
	(KRS 320.360)			
34.	**Pharmacy**	21,700	-0-	-0-
	(KRS 315.195)			
35.	**Physical Therapy**	7,000	-0-	-0-
	(KRS 327.080)			
36.	**Podiatry**	400	-0-	-0-
	(KRS 311.450)			
37.	**Private Investigators**	2,000	-0-	-0-
	(KRS 329A.020)			
38.	**Real Estate Appraisers**	15,800	-0-	-0-

	(KRS 324A.065)			
39.	**Real Estate Commission**	57,600	-0-	-0-
	(KRS 324.286 and 324.410)			
40.	**Speech-Pathologists and**			
	Audiologists 2,200	-0-	-0-	
	(KRS 334A.120)			
B.	**COMMERCE CABINET**			
1.	**Secretary**			
	Agency Revenue Fund	90,400	-0-	-0-
2.	**Artisans Center**			
	Agency Revenue Fund	30,000	-0-	-0-
3.	**Travel**			
	Agency Revenue Fund	1,700	-0-	-0-
4.	**State Parks**			
	State Parks Fund	1,255,600	-0-	-0-
5.	**Kentucky Horse Park**			
	Kentucky Horse Park Fund	150,300	-0-	-0-
6.	**Kentucky State Fair Board**			
	State Fair Board Fund	500,000	-0-	-0-
7.	**Historical Society**			
	Agency Revenue Fund	14,300	-0-	-0-
8.	**Arts Council**			
	Agency Revenue Fund	17,100	-0-	-0-
9.	**Heritage Council**			
	Agency Revenue Fund	16,200	-0-	-0-
C.	**ECONOMIC DEVELOPMENT CABINET**			
1.	**Secretary**			
	Agency Revenue Fund	179,000	-0-	-0-
D.	**DEPARTMENT OF EDUCATION**			
1.	**Learning and Results Services - District Support Services**			
	Agency Revenue Fund	101,600	-0-	-0-
E.	**EDUCATION CABINET**			
1.	**General Administration and Program Support**			
	Agency Revenue Fund	167,400	-0-	-0-
2.	**Secretary**			
	Agency Revenue Fund	4,000	-0-	-0-
3.	**Kentucky Educational Television**			
	Agency Revenue Fund	33,400	-0-	-0-
4.	**Deaf and Hard of Hearing**			
	Agency Revenue Fund	6,500	-0-	-0-
5.	**Environmental Education Council**			
	Agency Revenue Fund	4,800	-0-	-0-
6.	**Libraries and Archives**			
	Agency Revenue Fund	46,000	-0-	-0-
7.	**Education Professional Standards Board**			
	Agency Revenue Fund	20,700	-0-	-0-

8.	**Technical Education**			
	Agency Revenue Fund	56,000	-0-	-0-
9.	**Vocational Rehabilitation**			
	Agency Revenue Fund	73,900	-0-	-0-
10.	**Unemployment Insurance Penalty**			
	and Interest Account	186,100	-0-	-0-
	(KRS 341.835)			
F.	ENVIRONMENTAL AND PUBLIC PROTECTION CABINET			
1.	**Public Protection - General Operations**			
	Agency Revenue Fund	477,700	-0-	-0-
2.	**Athletic Commission**	4,200	-0-	-0-
	(KRS 229.250)			
3.	**Natural Resources**			
	Agency Revenue Fund	97,500	-0-	-0-
4.	**Environmental Protection**	351,400	-0-	-0-
	(KRS 224.20-310 and 224.20-050)			
5.	**Surface Mining**			
	Agency Revenue Fund	145,900	-0-	-0-
6.	**Claims/Crime Victims'**			
	Compensation 1,500	-0-	-0-	
	(KRS 346.185)			
7.	**Alcoholic Beverage Control**	107,400	-0-	-0-
	(KRS 243.025)			
8.	**Financial Institutions**	638,200	-0-	2,712,100
	(KRS 287.485)			
9.	**Insurance**	1,383,000	789,800	21,628,200
	(KRS 304.2-400 and			
	304.17B-001 to 304.17B-031)			
10.	**Horse Racing Authority**	49,600	1,000,000	1,000,000
	(KRS 230.361 to 230.375)			
11.	**Housing, Buildings and**			
	Construction 90,100	-0-	-0-	
	(KRS 318.136)			
12.	**Mines and Minerals**	36,600	-0-	-0-
	(KRS 351.110)			
13.	**Public Advocacy**	20,600	-0-	-0-
	(KRS 31.211, 189A.050(3)(b))			
14.	**Charitable Gaming**	191,200	-0-	-0-
	(KRS 238.570)			
15.	**Petroleum Storage Tank**			
	Assurance Fund	291,200	-0-	37,800,000
	(KRS 224.60-130 to 224.60-155)			
G.	FINANCE AND ADMINISTRATION CABINET			
1.	**General Administration**			
	Agency Revenue Fund	66,700	-0-	-0-
2.	**Controller**			
	Agency Revenue Fund	10,400	-0-	-0-
3.	**Administration**			

	Agency Revenue Fund	130,000	-0-	-0-
4.	**Facilities Management**			
	Physical Plant Fund			
	Property Management Fund	702,600	-0-	-0-
5.	**Revenue**	103,700	-0-	-0-
	(KRS 132.672, 134.400,			
	154.12-219, and 365.390(2))			
6.	**Property Valuation Administration**	111,600	-0-	-0-
	(KRS 132.590 and 132.597)			
H.	**HEALTH AND FAMILY SERVICES CABINET**			
1.	**General Administration and**			
	Program Support	169,100	-0-	-0-
	(KRS 212.025(2))			
2.	**General Administration and**	**Program Support**		
	Agency Revenue Fund	61,200	-0-	-0-
3.	**Children with Special Health**			
	Care Needs 440,900	-0-	-0-	
	(KRS 212.025(2))			
4.	**Children with Special Health Care Needs - Tobacco**			
	Tobacco Fund 49,000	-0-	-0-	
	(KRS 200.151)			
5.	**Medicaid - Administration**			
	Agency Revenue Fund	520,200	-0-	-0-
6.	**Mental Health and Mental**			
	Retardation Services	4,438,600	-0-	-0-
	(KRS 212.025(2))			
7.	**Public Health** 1,647,900	261,700	358,800	
	(KRS 212.025(2) and 213.141(3))			
8.	**Certificate of Need**	4,100	-0-	-0-
	(KRS 212.025(2))			
9.	**Aging Services**	19,000	-0-	-0-
	(KRS 212.025(2))			
10.	**Disability Determinations**			
	Agency Revenue Fund	1,600	-0-	-0-
11.	**Community Based Services**			
	Agency Revenue Fund	5,087,900	-0-	-0-
I.	**JUSTICE AND PUBLIC SAFETY CABINET**			
1.	**Justice Administration**			
	Agency Revenue Fund	37,400	-0-	-0-
2.	**State Police**			
	Agency Revenue Fund	292,900	-0-	-0-
3.	**Juvenile Justice**			
	Agency Revenue Fund	392,300	-0-	-0-
4.	**Kentucky Law Enforcement**			
	Foundation Program Fund	922,100	15,500,000	9,000,000
	(KRS 15.430)			
5.	**Corrections Management**			
	Agency Revenue Fund	502,200	-0-	-0-

6.	**Corrections - Community Services and Local Facilities**			
	Agency Revenue Fund	8,400	-0-	-0-
J.	**POSTSECONDARY EDUCATION**			
1.	**Council on Postsecondary Education**			
	Agency Revenue Fund	133,000	-0-	-0-
2.	**Technology Initiative Trust Fund** (KRS 164.7911 to 164.7921)	132,900	-0-	-0-
3.	**Eastern Kentucky University**			
	Agency Revenue Fund	2,415,700	-0-	-0-
4.	**Kentucky State University**			
	Agency Revenue Fund	586,600	-0-	-0-
5.	**Morehead State University**			
	Agency Revenue Fund	1,501,300	-0-	-0-
6.	**Murray State University**			
	Agency Revenue Fund	1,632,900	-0-	-0-
7.	**Northern Kentucky University**			
	Agency Revenue Fund	1,951,600	-0-	-0-
8.	**University of Louisville**			
	Agency Revenue Fund	4,400,000	-0-	-0-
9.	**Western Kentucky University**			
	Agency Revenue Fund	2,381,600	-0-	-0-
10.	**Kentucky Community and Technical College System**			
	Agency Revenue Fund	5,865,600	-0-	-0
11.	**Firefighters Foundation Program Fund** (KRS 95A.220)	-0-	9,000,000	3,500,000
K.	**TRANSPORTATION CABINET**			
1.	**General Administration and Support**			
	Fleet Management Fund	1,374,100	-0-	-0-
2.	**Air Transportation**			
	Kentucky Aviation Economic Development Fund (KRS 183.525(3), (4), and (5))	700,000	-0-	-0-
TOTAL - FUNDS TRANSFER		47,563,200	28,751,500	81,359,300

PART VI

GENERAL FUND BUDGET REDUCTION PLAN

Pursuant to KRS 48.130 and 48.600, a General Fund Budget Reduction Plan is enacted for state government in the event of an actual or projected deficit in estimated General Fund revenue receipts of $7,153,800,000 in fiscal year 2004-2005 and $7,457,000,000 in fiscal year 2005-2006 as modified by related Acts and actions of the General Assembly in an extraordinary or regular session. Direct services, obligations essential to the minimum level of constitutional functions, and other items that may be specified in this Act, are exempt from the requirements of this Plan. Each branch head shall prepare a specific plan to address a proportionate share of the General Fund revenue shortfall applicable to the respective branch. No budget revision action shall be taken by a branch head in excess of the actual or projected deficit.

The Governor, the Chief Justice, and the Legislative Research Commission shall direct and implement reductions in allotments and appropriations only for their respective branch budget units as may be necessary as well as take other measures which shall be consistent with the provisions of this Part and general branch budget bills.

In the event of a revenue shortfall under the provisions of KRS 48.120, General Fund budget reduction actions shall be implemented in the following sequence:

(1) The Local Government Economic Assistance and the Local Government Economic Development Funds shall be adjusted by the Secretary of the Finance and Administration Cabinet to equal revised estimates of receipts pursuant to KRS 42.4582 as modified by the provisions of this Act.

(2) Transfers of excess unappropriated and unbudgeted Restricted Funds other than fiduciary funds shall be applied as determined by the head of each branch for its respective budget units.

(3) Excess General Fund appropriations which accrue as a result of personnel vacancies and turnover, and reduced requirements for operating expenses, grants, and capital outlay shall be determined and applied by the heads of the executive, judicial, and legislative departments of state government for their respective branches. The branch heads shall certify the available amounts which shall be applied to budget units within the respective branches and shall promptly transmit the certification to the Secretary of the Finance and Administration Cabinet and the Legislative Research Commission. The Secretary of the Finance and Administration Cabinet shall execute the certified actions as transmitted by the branch heads.

Branch heads shall take care, by their respective actions, to protect, preserve, and advance the fundamental health, safety, legal and social welfare, and educational well-being of the citizens of the Commonwealth.

(4) Funds available in the Budget Reserve Trust Fund shall be applied in an amount not to exceed 25 percent of the trust fund balance in fiscal year 2004-2005 and 50 percent of the trust fund balance in fiscal year 2005-2006.

(5) Notwithstanding the provisions of KRS 48.130 and 48.600, if the actions contained in subsections (1) to (4) of this section are insufficient to eliminate an actual or projected revenue shortfall in the enacted General Fund revenue receipts, then the Governor is empowered and directed to take necessary actions with respect to the Executive Branch budget units to balance the budget by such actions conforming with the criteria expressed in the preceding subsection.

PART VII

GENERAL FUND SURPLUS EXPENDITURE PLAN

1. Pursuant to KRS 48.700 and notwithstanding KRS 48.140, there is established a plan for the expenditure of General Fund surplus moneys pursuant to a General Fund Surplus Expenditure Plan contained in this Part for fiscal years 2004-2005 and 2005-2006. Pursuant to the enactment of the Surplus Expenditure Plan, General Fund moneys in the General Fund undesignated fund balance in excess of the amount specified in Part I, section (3), are appropriated to the following: (1) Teacher salary funding support to public school districts in an amount sufficient to provide for the recurring impact in fiscal year 2005-2006 of the one and one-half percent pay increase provided by school districts in fiscal year 2004-2005 to the extent that amount is not already provided in this bill. The appropriate amount shall be calculated by the State Budget Director in consultation with the Commissioner of the Department of Education and the Secretary of the Education Cabinet. In the event that insufficient General Fund Surplus moneys are realized after the close of fiscal year 2004-2005, the amount calculated as necessary by the State Budget Director shall be reserved and appropriated from the Budget Reserve Trust Fund for expenditure in fiscal year 2005-2006; (2) Increased funding of $2 million to the Read to Achieve program in the Department of Education in fiscal year 2004-2005 and in 2005-2006, respectively; (3) Increased support to the Budget Reserve Trust Fund up to the amount necessary to provide a balance equaling one percent of estimated General Fund revenues for each fiscal year; (4) Increased funding for the Office of the New Economy in the Economic Development Cabinet for programs and economic development initiatives not to exceed $25 million; (5) Information technology and business systems funding for projects identified herein including to accelerate action on projects identified by the Secretary of the Executive Cabinet and Chief Information Officer for the Commonwealth not to exceed $50 million; and (6) the Budget Reserve Trust Fund.

2. The Secretary of the Finance and Administration Cabinet shall determine, within thirty (30) days after the close of the fiscal year 2004-2005, and the close of fiscal year 2005-2006, based on the official financial records of the Commonwealth, the amount of actual General Fund undesignated fund balance for the General Fund Surplus Account that may be available for expenditure pursuant to the Plan respectively in fiscal year 2004-2005 and fiscal year 2005-2006.

The Secretary of the Finance and Administration Cabinet shall certify the amount of actual General Fund undesignated fund balance available for expenditure to the Legislative Research Commission.

Subsequent to June 30, 2004, funds that are certified as being available in the actual General Fund undesignated fund balance for the General Fund Surplus Account are appropriated for expenditure in fiscal year 2004-2005 pursuant to the Plan.

PART VIII

ROAD FUND BUDGET REDUCTION PLAN

There is established a Road Fund Budget Reduction Plan for fiscal year 2004-2005 and fiscal year 2005-2006. Notwithstanding KRS 48.130, in the event of an actual or projected shortfall in estimated Road Fund revenue receipts of $1,141,409,100 in fiscal year 2004-2005 and $1,162,506,700 in fiscal year 2005-2006 as determined by KRS 48.120(3), the Governor shall implement sufficient reductions as may be required to protect the highest possible level of service. No budget revision action shall be taken in excess of the actual or projected deficit.

PART IX

ROAD FUND SURPLUS EXPENDITURE PLAN

Notwithstanding KRS 48.140 and pursuant to KRS 48.710, there is established a plan of expenditures from the Road Fund Surplus Account. All moneys in the Road Fund Surplus Account shall be deposited in the State Construction Account and utilized to support projects in the fiscal biennium 2004-2006 Biennial Highway Construction Program.

PART X

PHASE I TOBACCO SETTLEMENT

(1) **General Purpose:** This section of the Act prescribes the policy implementing aspects of the national settlement agreement between the tobacco industry and the collective states as described in KRS 248.701 to 248.727. In furtherance of that agreement, the General Assembly recognizes that the Commonwealth of Kentucky is a party to the Phase I Master Settlement Agreement (MSA) between the Participating Tobacco Manufacturers and 46 Settling States which provides reimbursement to states for smoking-related expenditures made over time.

(2) **State's MSA Share:** The Commonwealth's share of the MSA is equal to 1.7611586 percent of the total settlement amount. Payments under the MSA were made to the states in January and April of each year through 2003 and will be made annually in January thereafter.

(3) **MSA Payment Amount Variables:** The total settlement amount to be distributed each payment date is subject to change pursuant to several variables provided in the MSA, including inflation adjustments, volume adjustments, previously settled states adjustments, and the nonparticipating manufacturers adjustment.

(4) **Distinct Identity of MSA Payment Deposits:** The General Assembly has determined that it shall be the policy of the Commonwealth that all Phase I Tobacco Settlement payments shall be deposited to the credit of the General Fund and shall maintain a distinct identity as Phase I Tobacco Settlement payments that shall not lapse to the credit of the General Fund surplus, but shall continue forward from each fiscal year to the next fiscal year to the extent that any balance is unexpended.

(5) **MSA Payment Estimates and Adjustments:** Based on the current estimates as reviewed by the Consensus Revenue Forecasting Group, the amount of MSA payments expected to be received in fiscal year 2004-2005 is $108,800,000 and in fiscal year 2005-2006 is $108,600,000. It is recognized that payments to be received by the Commonwealth are estimated and are subject to change. Any appropriations made from the estimated receipts are subject to adjustments based on actual receipts as received and certified by the Secretary of the Finance and Administration Cabinet.

a. **State Enforcement:** Notwithstanding KRS 248.654, a total of $175,000 of the MSA payments received each fiscal year of the 2004-2006 biennium is appropriated to the Finance and Administration Cabinet, Department of Revenue for the state's enforcement of noncompliant nonparticipating manufacturers.

b. **Agricultural Development Initiatives:** Fifty percent of the MSA payments, less the above enforcement appropriations, received in fiscal year 2004-2005, estimated to be $54,312,500, and in fiscal year 2005-2006, estimated to be $54,212,500, is appropriated to the Kentucky Agricultural Development Fund to be used for agricultural development initiatives.

c. **Early Childhood Development Initiatives:** Twenty-five percent of the MSA payments, less the above enforcement appropriations, received in fiscal year 2004-2005, estimated to be $27,156,200, and in fiscal year 2005-2006, estimated to be $27,106,200, is appropriated for Early Childhood Development Initiatives as specified below.

d. **Health Care Initiatives:** Twenty-five percent of the MSA payments received, less the above enforcement appropriations, in fiscal year 2004-2005, estimated to be $27,156,300, and in fiscal year 2005-2006, estimated to be $27,106,300, is appropriated to the Kentucky Health Care Improvement Fund for health care initiatives as specified below.

A. STATE ENFORCEMENT

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

1. FINANCE AND ADMINISTRATION CABINET

Budget Unit	**2004-05**	**2005-06**
a. Revenue	175,000	175,000

B. AGRICULTURAL DEVELOPMENT APPROPRIATIONS

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

1. GOVERNMENT OPERATIONS

Budget Unit	**2004-05**	**2005-06**
a. Governor's Office of Agricultural Policy	39,195,900	39,099,300

(1) **County Allocations:** Notwithstanding KRS 248.711(2), and from the allocation provided therein, counties that are allocated in excess of $20,000 annually may provide up to four percent of the individual county allocation, not to exceed $15,000 annually, to the county council in that county for administrative costs.

2. ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

Budget Unit	**2004-05**	**2005-06**
a. Natural Resources - Conservation	9,000,000	9,000,000

(1) **Environmental Stewardship Program:** Included in the above General Fund (Tobacco) appropriation is $9,000,000 in each fiscal year for the Environmental Stewardship Program.

3. FINANCE AND ADMINISTRATION CABINET

Budget Unit	2004-05	2005-06
a. Debt Service	6,116,600	6,113,200

(1) **Debt Service:** To the extent that revenues sufficient to support the required debt service appropriations are received from the Tobacco Settlement Program, those revenues shall be made available from those accounts to the appropriate account of the General Fund. All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid regardless of whether there is a sufficient amount available to be transferred from tobacco supported funding program accounts to other accounts of the General Fund.

TOTAL - AGRICULTURAL APPROPRIATIONS	54,312,500	54,212,500

C. EARLY CHILDHOOD DEVELOPMENT

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

1. EDUCATION CABINET

Budget Unit	2004-05	2005-06
a. Learning and Results Services	1,888,400	1,888,400

2. HEALTH AND FAMILY SERVICES CABINET

Budget Units	2004-05	2005-06
a. Community Based Services	7,500,400	7,500,400

(1) **Early Childhood Development Program and Child Advocacy Centers:** Included in the above General Fund (Tobacco) appropriation is $7,320,400 in fiscal year 2004-2005 and $7,320,400 in fiscal year 2005-2006 for the Early Childhood Development Program, and $180,000 in fiscal year 2004-2005 and $180,000 in fiscal year 2005-2006 for Child Advocacy Centers.

b. Public Health	14,512,400	14,462,400

(1) **HANDS Program, Healthy Start, Universal Children's Immunizations, Folic Acid Program, Early Childhood Mental Health, and Early Childhood Oral Health:** Included in the above General Fund (Tobacco) appropriation is $8,149,900 in each fiscal year for the Health Access Nurturing Development Services (HANDS) Program; $2,000,000 in each fiscal year for Healthy Start initiatives; $2,000,000 in each fiscal year for Universal Children's Immunizations; $900,000 in each fiscal year for the Folic Acid Program; $1,000,000 in each fiscal year for Early Childhood Mental Health; and $462,500 in fiscal year 2004-2005 and $412,500 in fiscal year 2005-2006 for Early Childhood Oral Health.

c. Mental Health and Mental Retardation Services	900,000	900,000

(1) **Substance Abuse Prevention and Treatment:** Included in the above General Fund (Tobacco) appropriation is $900,000 in each fiscal year for substance abuse prevention and treatment.

d. Commission for Children with Special Health Care Needs	1,455,000	1,455,000

(1) **Universal Newborn Hearing Screening, Vision Screening, and Kentucky Early Intervention Services First Steps Program:** Included in the above General Fund (Tobacco) appropriation is $450,000 in each fiscal year for Universal Newborn Hearing Screening; $5,000 in each fiscal year for Vision Screening; and $1,000,000 each fiscal year for the Kentucky Early Intervention Services First Steps Program.

3. POSTSECONDARY EDUCATION

Budget Unit	2004-05	2005-06
a. Kentucky Higher Education Assistance Authority	900,000	900,000

(1) **Early Childhood Scholarships:** Included in the above General Fund (Tobacco) appropriation is $900,000 in fiscal year 2004-2005 and $900,000 in fiscal year 2005-2006 for Early Childhood Scholarships.

TOTAL - EARLY CHILDHOOD APPROPRIATIONS	27,156,200	27,106,200

D. HEALTH CARE IMPROVEMENT APPROPRIATIONS

GENERAL FUND - PHASE I TOBACCO SETTLEMENT FUNDS

Notwithstanding KRS 304.17B-003(5), appropriations for health care improvement shall be as follows:

1. ENVIRONMENTAL AND PUBLIC PROTECTION CABINET

Budget Unit	2004-05	2005-06
a. Insurance	16,782,600	16,751,700

(1) **Kentucky Access Program:** Included in the above General Fund (Tobacco) appropriation is $16,782,600 in fiscal year 2004-2005 and $16,751,700 in fiscal year 2005-2006 for the Kentucky Access Program.

2. HEALTH AND FAMILY SERVICES CABINET

Budget Unit	**2004-05**	**2005-06**
a. Public Health	2,715,600	2,710,600

(1) Smoking Cessation Program: Included in the above General Fund (Tobacco) appropriation is $2,715,600 in fiscal year 2004-2005 and $2,710,600 in fiscal year 2005-2006 for the Smoking Cessation Program.

3. JUSTICE AND PUBLIC SAFETY CABINET

Budget Unit	**2004-05**	**2005-06**
a. Kentucky Agency for Substance Abuse Policy	2,226,800	2,222,700

4. POSTSECONDARY EDUCATION

Budget Unit	**2004-05**	**2005-06**
a. Council on Postsecondary Education	5,431,300	5,421,300
TOTAL - HEALTH CARE APPROPRIATIONS	27,156,300	27,106,300
TOTAL - PHASE I TOBACCO SETTLEMENT FUNDING PROGRAM	108,800,000	108,600,000

PART XI

STATE/EXECUTIVE BRANCH BUDGET SUMMARY

OPERATING BUDGET

	2003-04	**2004-05**	**2005-06**
General Fund - Tobacco	-0-	108,800,000	108,600,000
General Fund 4,685,000	7,056,352,400	7,293,246,300	
Restricted Funds	67,512,500	3,996,481,300	4,125,898,100
Federal Funds 60,786,700	6,344,962,000	6,274,743,900	
Road Fund	-0-	1,129,210,100	1,158,258,700
SUBTOTAL 132,984,200	18,635,805,800	18,960,747,000	

CAPITAL PROJECTS BUDGET

	2003-04	**2004-05**	**2005-06**
General Fund -0-	-0-	8,000,000	
Restricted Funds	-0-	1,730,581,800	108,767,000
Federal Funds 563,000	176,793,700	60,964,000	
Road Fund	-0-	12,199,000	4,248,000
Bond Funds -0-	580,825,000	-0-	
Agency Bonds -0-	113,675,000	-0-	
Capital Construction Surplus	-0-	880,000	63,000
Investment Income	400,000	33,224,700	19,895,000
Other Funds -0-	21,800,000	4,300,000	
SUBTOTAL 963,000	2,669,979,200	206,237,000	

TOTAL - STATE/EXECUTIVE BUDGET

	2003-04	**2004-05**	**2005-06**
General Fund - Tobacco	-0-	108,800,000	108,600,000
General Fund 4,685,000	7,056,352,400	7,301,246,300	
Restricted Funds	67,512,500	5,727,063,100	4,234,665,100
Federal Funds 61,349,700	6,521,755,700	6,335,707,900	
Road Fund	-0-	1,141,409,100	1,162,506,700
Bond Funds -0-	580,825,000	-0-	
Agency Bonds -0-	113,675,000	-0-	
Capital Construction Surplus	-0-	880,000	63,000
Investment Income	400,000	33,224,700	19,895,000
Other Funds -0-	21,800,000	4,300,000	

TOTAL FUNDS	133,947,200	21,305,785,000	19,166,984,000

The above capital projects are directly funded in Part II, Capital Projects Budget, of this Act.

HB 396, AN ACT making appropriations for the operations, maintenance, support, and functioning of the judicial branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state-supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

There is appropriated out of the General Fund, Restricted Funds accounts, or Federal Funds accounts for the fiscal year beginning July 1, 2004, and ending June 30, 2005, and for the fiscal year beginning July 1, 2005, and ending June 30, 2006, in the following sums to be used for the purposes of the judicial branch of the government of the Commonwealth of Kentucky, including the Supreme Court, Court of Appeals, Circuit Court, Family Court, District Court, the Administrative Office of the Courts, pretrial services, juvenile services, judicial boards and commissions, the State Law Library, judicial retirement, Local Facilities Fund, Local Facilities Use Allowance Contingency Fund, and for services performed by the circuit clerks' offices, including both Circuit and District Court support.

1. Court of Justice

a. Court operations and administration

	2004-05	**2005-06**
General Fund	162,637,500	172,632,100
Restricted Funds	13,296,300	14,175,800
Federal Funds	3,096,500	1,604,200
Total	179,030,300	188,412,100

Funds are included to provide a one and one-half percent salary adjustment in fiscal year 2004-2005 and a three percent salary adjustment in fiscal year 2005-2006 for nonelected court personnel. Included are funds to provide a one and one-half percent salary adjustment in fiscal year 2004-2005 and a three percent salary adjustment in fiscal year 2005-2006 for justices and judges. Also included are funds for the salaries of the circuit clerks in fiscal year 2004-2005 and in fiscal year 2005-2006 as provided for in the Judicial Branch Budget Recommendation.

Included in the above General Fund appropriation is $2,198,000 in fiscal year 2004-2005 and $4,015,700 in fiscal year 2005-2006 to replace Federal Funds for existing drug court sites whose funding expires during the 2004-2006 fiscal biennium. Included in the above General Fund appropriation is $88,700 in fiscal year 2004-2005 and $109,600 in fiscal year 2005-2006 to replace Restricted Funds for Kenton Juvenile and Whitley Juvenile Drug Courts. The above General Fund appropriation also includes $4,224,200 in fiscal year 2004-2005 and $4,154,900 in fiscal year 2005-2006 to support funding for additional drug court sites throughout the Commonwealth.

Included in the above General Fund appropriation is $2,098,600 in fiscal year 2004-2005 and $4,430,500 in fiscal year 2005-2006 to support eight additional family court judgeships.

Included in the above General Fund appropriation is $161,800 in fiscal year 2004-2005 and $485,400 in fiscal year 2005-2006 for 15 additional deputy clerk positions.

Included in the above General Fund appropriation is $121,900 in fiscal year 2004-2005 and $135,600 in fiscal year 2005-2006 to move nine part-time secretaries in the District Court to full-time with benefits.

Notwithstanding KRS 24A.100(3), funds are included in the above General Fund appropriation to continue the statutory maximum salary of trial commissioners as provided for in the Judicial Branch Budget Recommendation.

b. Local Facilities Fund

	2004-05	**2005-06**
General Fund	68,416,700	91,220,100

Included in the above appropriation are moneys to compensate local units of government for providing court space and for costs incurred in the development of local court facilities as defined in KRS Chapter 26A and provided in Part II of this Act, and to perform all other acts required or authorized by KRS Chapter 26A.

Included in the above appropriation is $8,845,300 in fiscal year 2004-2005 and $31,098,500 in fiscal year 2005-2006 to support operating, use allowance, and furniture and equipment costs for each local facility project contained in Part II of this Act.

Included in the above appropriation is $128,600 in fiscal year 2004-2005 and $127,000 in fiscal year 2005-2006 for an additional Architect and an additional Facilities Officer.

Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 2003-2004 shall not lapse and shall continue into fiscal year 2004-2005, and any unexpended balance remaining at the close of fiscal year 2004-2005 shall not lapse and shall be continued into fiscal year 2005-2006.

The use allowance for the Fayette County Courthouse is contingent upon Short Street in Lexington, Kentucky, remaining open to vehicular traffic.

c. Local Facilities Use Allowance Contingency Fund

	2004-05	**2005-06**
General Fund	-0-	-0-

Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 2003-2004 shall not lapse and shall continue into fiscal year 2004-2005, and any unexpended balance remaining at the close of fiscal year 2004-2005 shall not lapse and shall be continued into fiscal year 2005-2006 to provide for cost overruns in authorized court facilities projects not to exceed 15 percent of the use allowance in accordance with KRS Chapter 26A.

TOTAL - COURT OF JUSTICE

	2004-05	**2005-06**
General Fund	231,054,200	263,852,200
Restricted Funds	13,296,300	14,175,800
Federal Funds	3,096,500	1,604,200
TOTAL	247,447,000	279,632,200

2. Judicial Form Retirement System

	2004-05	**2005-06**
General Fund	2,299,800	2,303,300

General Fund amounts are included to provide for the 2003 actuarial assessed needs of the Judicial Form Retirement System.

TOTAL - OPERATING BUDGET

	2004-05	**2005-06**
General Fund	233,354,000	266,155,500
Restricted Funds	13,296,300	14,175,800
Federal Funds	3,096,500	1,604,200
TOTAL	249,746,800	281,935,500

PART II

CAPITAL PROJECTS BUDGET

1. Local Facility Projects

The multiyear schedule for the use allowance payments for the capital costs for each local facility is contained in the Judicial Branch Budget.

a.	Adair County - Project Scope	9,771,000
b.	Taylor County - Project Scope	14,664,000
c.	Laurel County - Project Scope	23,337,000
d.	Shelby County - Project Scope	17,846,000
e.	Pulaski County - Project Scope	22,043,000
f.	Green County - Project Scope	9,352,000
g.	Project Pool	
	Robertson County - Project Scope	2,229,000
	Gallatin County - Project Scope	2,229,000
	Pendleton County - Project Scope	2,228,000
h.	Washington County - Project Scope	10,608,000
i.	Livingston County - Project Scope	5,557,000
j.	Grant County - Project Scope	14,233,000
k.	Jackson County - Project Scope	10,601,000
l.	Boyd County - Project Scope	19,148,000
m.	Grayson County - Project Scope	11,076,000
n.	Logan County - Project Scope	14,535,000
o.	Hopkins County - Project Scope	19,457,000

p.	Hart County - Project Scope	10,871,000
q.	Trigg County - Project Scope	9,757,000
r.	Rowan County - Project Scope	11,234,000
s.	Pike County - Project Scope	25,956,000
t.	Wolfe County - Project Scope	10,182,000
u.	Franklin County - Lease - Office Space	
v.	Franklin County - Lease - Court of Appeals	
w.	Jefferson County - Courts Parking Lease	

For any court facility project which is occupied and use allowance funding is insufficient, the use allowance payments shall be approved from the Local Facilities Use Allowance Contingency Fund. If funds are not available in the Local Facilities Use Allowance Contingency Fund, the use allowance payments shall be deemed a necessary governmental expense (General Fund Surplus Account, KRS 48.700).

Nothing in this Act shall reduce the funding of court facility projects authorized by the General Assembly.

TOTAL - JUDICIAL BRANCH BUDGET

	2004-05	**2005-06**
General Fund	233,354,000	266,155,500
Restricted Funds	13,296,300	14,175,800
Federal Funds	3,096,500	1,604,200
TOTAL	249,746,800	281,935,500

PART III

GENERAL PROVISIONS

1. The Director of the Administrative Office of the Courts, with the approval of the Chief Justice, may expend any of the funds appropriated for the court operation and administration in any lawful manner and for any legal purpose that the Chief Justice shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the judicial branch of government.

2. The Court of Justice shall not incur any obligation for any program against the General Fund appropriations contained in this Act unless that program may be reasonably determined to have been contemplated by the proposed judicial budget, as modified and enacted, and supported by the statutory budget memorandum and other pertinent records.

3. Appropriation items and sums in this Act conform to KRS 48.311. If any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

4. Any appropriation item and sum in this Act and in an appropriation provision in another Act of the 2004 General Assembly which constitutes a duplicate appropriation shall be governed by KRS 48.312.

5. KRS 48.313 shall control when a total or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

6. Notwithstanding KRS 45.229, any unexpended balance remaining in the Court's Restricted Funds accounts or Federal Funds accounts at the close of the fiscal years ending June 30, 2004, and June 30, 2005, shall not lapse and shall continue into the next fiscal year.

7. The Chief Justice shall cause the Director of the Administrative Office of the Courts to prepare a final budget document reflecting the 2004-2006 biennial budget of the Court of Justice. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the Finance and Administration Cabinet within 60 days of the adjournment of the 2004 Regular Session of the General Assembly.

8. The Chief Justice of the Commonwealth of Kentucky shall have the ability to transfer funds to other programs and budget units within the Judicial Branch. Any funds transferred to other budget units within the Judicial Branch may be used to support any activity, program, or operation of the budget unit or program receiving the respective funds.

9. Funding for the Kentucky Legal Education Opportunities (KLEO) Program has been continued during fiscal year 2004-2005 and fiscal year 2005-2006.

PART IV

BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

The Judicial Branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with the provisions of KRS Chapter 48.

HB 397, AN ACT making appropriations for the operations, maintenance, and support of the legislative branch of the

Commonwealth of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

OPERATING BUDGET

Funds are appropriated to the Legislative Research Commission out of the General Fund, Restricted Funds accounts, or Federal Funds accounts for the fiscal year beginning July 1, 2004, and ending June 30, 2005, and for the fiscal year beginning July 1, 2005, and ending June 30, 2006, in the following discrete sums, or so much thereof as may be necessary. Each appropriation is made by the source of respective fund or funds accounts to be used for the purposes of the legislative branch of government of the Commonwealth of Kentucky.

	2004-05	**2005-06**
1. General Assembly		
General Fund	13,312,300	13,312,300
Restricted Funds	65,000	75,000
Total	13,377,300	13,387,300

The above General Fund appropriation to the General Assembly includes funds for the Legislators Retirement Plan in each fiscal year and provides for the continuation of the annual cost of living adjustment authorized for the 2002-2004 biennium. Notwithstanding KRS 6.190 and 6.213, the daily compensation provided by KRS 6.190 and the interim expense allowance provided by KRS 6.213 for members of the General Assembly shall be as authorized for the 2002-2004 biennium and shall continue as adjusted on January 1, 2005, and January 1, 2006, by the all urban consumer price index (CPI-U) not to exceed the cost-of-living adjustment provided state employees in the state/executive branch budget but not less than zero percent per annum.

	2004-05	**2005-06**
2. Legislative Research Commission		
General Fund	27,304,100	27,304,100
Restricted Funds	50,000	125,000
Total	27,354,100	27,429,100

The total number of permanent full-time employees hired by the Legislative Research Commission with the above appropriation, and not assigned specifically to the House and Senate members of the Legislative Research Commission, shall not exceed 232 in fiscal year 2004-2005 and 232 in fiscal year 2005-2006. In addition to this number, the total number of permanent full-time employees assigned specifically to the House members of the Legislative Research Commission shall not exceed 19 and the permanent full-time employees assigned specifically to the Senate members of the Legislative Research Commission shall not exceed 10.

TOTAL - OPERATING BUDGET

	2004-05	**2005-06**
General Fund	40,616,400	40,616,400
Restricted Funds	115,000	200,000
TOTAL	40,731,400	40,816,400

Notwithstanding KRS 45.229, any unexpended balance remaining at the close of fiscal year 2003-2004 shall not lapse but shall continue into the fiscal year 2004-2005, and any unexpended balance in any succeeding fiscal year shall not lapse but shall continue into the following fiscal year.

TOTAL - LEGISLATIVE BRANCH BUDGET

	2004-05	**2005-06**
General Fund	40,616,400	40,616,400
Restricted Funds	115,000	200,000
TOTAL	40,731,400	40,816,400

PART II

GENERAL PROVISIONS

1. The Director of the Legislative Research Commission with the approval of the Legislative Research Commission may expend any of the funds appropriated for legislative operation and administration in any lawful manner and for any legal purpose which the Commission shall authorize or direct. No executive agency or statute governing the executive agencies of state government shall have the power to restrict or limit the actions of or the expenditure of funds appropriated to the legislative branch of government.

2. The Director of the Legislative Research Commission shall submit monthly to the Legislative Research Commission a report listing all travel expenses reimbursed, travel-related per diem, and any other travel-related reimbursement for each General

Assembly member and each employee of the Legislative Research Commission who was reimbursed during the previous month.

3. Any expenditure authorized by the Legislative Research Commission relating to implementation of KRS 56.463(4)(b) and funded by previous appropriations to the legislative branch shall not be governed by KRS 7A.010, 7A.120, 45.750 to 45.810, 48.010(14), and 48.020.

4. No member of the General Assembly except members of the Legislative Research Commission shall receive in any one fiscal year per diem compensation in excess of seven days in connection with out-of-state travel unless prior written approval has been received from the Legislative Research Commission.

5. Appropriation items and sums in this Act conform to KRS 48.311. If any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions.

6. Any appropriation item and sum in this Act and in an appropriation provision in another Act of the 2004 Regular Session of the General Assembly which constitutes a duplicate appropriation shall be governed by KRS 48.312.

7. KRS 48.313 shall control when a total, subtotal, or subtotal figure in this Act conflicts with the sum of the appropriations of which it consists.

8. Proposed revisions to Restricted Funds and Federal Funds appropriations in this Act shall be made and reported pursuant to KRS 48.630(10). The Director of the Legislative Research Commission shall notify the Legislative Research Commission on a timely basis of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

9. The Legislative Research Commission shall cause the Director of the Legislative Research Commission to prepare a final budget document reflecting the 2004-2006 biennial budget of the legislative branch. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the Finance and Administration Cabinet within 60 days of the adjournment of the 2004 Regular Session of the General Assembly.

10. Notwithstanding KRS 6.220, in lieu of stationery, there shall be allowed to each member of the House of Representatives the sum of $250 and to each member of the Senate the sum of $500. This allowance shall be paid out of the State Treasury at the beginning of the session.

PART III

BUDGET REDUCTION OR SURPLUS EXPENDITURE PLAN

The legislative branch shall participate in any Budget Reduction Plan or Surplus Expenditure Plan in accordance with the provisions of KRS Chapter 48.

HJR 103, A JOINT RESOLUTION relating to the budget process and declaring an emergency.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process that is primarily codified in KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum that shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and that shall explain the changes in detail sufficiently to convey the intent of the appropriations committees; and

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory process;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Any mandates, directives, or initiatives contained in the 2004-2006 State/Executive Branch Budget Memorandum shall have the force and effect of law.

Section 2. The staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 2004-2006 State/Executive Branch Budget Memorandum that do not alter the sense, meaning, or effect of the 2004-2006 State/Executive Branch Budget Bill or the 2004-2006 State/Executive Branch Budget Memorandum.

Section 3. The provisions of the 2004-2006 State/Executive Branch Budget Memorandum shall not be construed to contain appropriations and, therefore, shall not supersede appropriations contained in the 2004-2006 State/Executive Branch Budget Bill or appropriations contained in any other enactment of the 2004 Regular Session of the General Assembly. If any mandate, directive, or initiative contained in the 2004-2006 State/Executive Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 2004-2006 State/Executive Branch Budget Memorandum, the mandate, directive, or initiative contained in the 2004-2006 State/Executive Branch Budget Bill shall prevail.

Section 4. Whereas the State/Executive Branch Budget Bill takes effect upon its passage and approval of the Governor or its otherwise becoming law, an emergency is declared to exist, and this Joint Resolution takes effect upon its passage and approval by the Governor or its otherwise becoming law.

HJR 104, A JOINT RESOLUTION relating to the budget process and declaring an emergency.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process that is primarily codified in KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum that shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and that shall explain the changes in detail sufficiently to convey the intent of the appropriations committees; and

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory process;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Any mandates, directives, or initiatives contained in the 2004-2006 Judicial Branch Budget Memorandum shall have the force and effect of law.

Section 2. The staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 2004-2006 Judicial Branch Budget Memorandum that do not alter the sense, meaning, or effect of the 2004-2006 Judicial Branch Budget Bill or the 2004-2006 Judicial Branch Budget Memorandum.

Section 3. The provisions of the 2004-2006 Judicial Branch Budget Memorandum shall not be construed to contain appropriations and, therefore, shall not supersede appropriations contained in the 2004-2006 Judicial Branch Budget Bill or appropriations contained in any other enactment of the 2004 Regular Session of the General Assembly. If any mandate, directive, or initiative contained in the 2004-2006 Judicial Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 2004-2006 Judicial Branch Budget Memorandum, the mandate, directive, or initiative contained in the 2004-2006 Judicial Branch Budget Bill shall prevail.

Section 4. Whereas the Judicial Branch Budget Bill takes effect upon its passage and approval of the Governor or its otherwise becoming law, an emergency is declared to exist, and this Joint Resolution takes effect upon its passage and approval by the Governor or its otherwise becoming law.

HJR 105, A JOINT RESOLUTION relating to the budget process and declaring an emergency.

WHEREAS, the Constitution of the Commonwealth of Kentucky empowers the General Assembly to make appropriations; and

WHEREAS, the Kentucky Supreme Court recognizes that the budget, which appropriates the revenue of the Commonwealth and which determines how that revenue shall be spent, is fundamentally a legislative matter; and

WHEREAS, the General Assembly has enacted into law the statutory budget process that is primarily codified in KRS Chapter 48; and

WHEREAS, the statutes provide that prior to the passage of a budget bill, the appropriations committees of the General Assembly shall prepare a budget memorandum that shall enumerate the changes made by the appropriations committees in a branch budget recommendation, and that shall explain the changes in detail sufficiently to convey the intent of the appropriations committees; and

WHEREAS, the Kentucky Supreme Court has upheld the use of the budget memorandum as a valid part of the statutory process;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Any mandates, directives, or initiatives contained in the 2004-2006 Legislative Branch Budget Memorandum shall have the force and effect of law.

Section 2. The staff of the Legislative Research Commission shall have the authority, subject to the approval of the Legislative Research Commission, to make technical or format adjustments to the 2004-2006 Legislative Branch Budget Memorandum that do not alter the sense, meaning, or effect of the 2004-2006 Legislative Branch Budget Bill or the 2004-2006 Legislative Branch Budget Memorandum.

Section 3. The provisions of the 2004-2006 Legislative Branch Budget Memorandum shall not be construed to contain appropriations and, therefore, shall not supersede appropriations contained in the 2004-2006 Legislative Branch Budget Bill or appropriations contained in any other enactment of the 2004 Regular Session of the General Assembly. If any mandate, directive, or initiative contained in the 2004-2006 Legislative Branch Budget Bill conflicts with any mandate, directive, or initiative contained in the 2004-2006 Legislative Branch Budget Memorandum, the mandate, directive, or initiative contained in the 2004-2006 Legislative Branch Budget Bill shall prevail.

Section 4. Whereas the Legislative Branch Budget Bill takes effect upon its passage and approval of the Governor or its otherwise becoming law, an emergency is declared to exist, and this Joint Resolution takes effect upon its passage and approval by the Governor or its otherwise becoming law.

Floor Amendments

Floor Amendment No. 3 to the Committee Substitute to **HB 357**, by Representative Harmon:

HB 357, On page 1, after the enacting clause, delete the provisions of the bill in their entirety and insert in lieu thereof the following:

"Section 1. KRS 189.450 is amended to read as follows:

(1) No person shall stop a vehicle, leave it standing or cause it to stop or to be left standing upon any portion of the roadway; provided, however, that this section shall not be construed to prevent parking in front of a private residence off the roadway or street in a city or suburban area where such parking is otherwise permitted, as long as the vehicle so parked does not impede the flow of traffic. This subsection shall not apply to:

(a) A vehicle that has been disabled on the right-of-way of such a highway in such a manner and to such extent that it is impossible to avoid the occupation of the shoulder of a state-maintained highway or impracticable to remove it from the shoulder of the highway until repairs have been made or sufficient help obtained for its removal. In no event shall a disabled vehicle remain on the shoulder of a state-maintained highway for twenty-four (24) hours or more;

(b) Motor vehicles when required to stop in obedience to the provisions of any section of the Kentucky Revised Statutes or any traffic ordinance, regulation or sign or the command of any peace officer;

(c) Vehicles operating as common carriers of passengers for hire and school buses taking passengers on such vehicle or discharging passengers therefrom, provided that no such vehicle shall stop for such purposes at a place on the highway which does not afford reasonable visibility to approaching motor vehicles from both directions; or

(d) Any vehicle required to stop by reason of an obstruction to its progress.

(2) When any police officer finds a vehicle standing upon such a highway in violation of this section, he may move or cause to be moved the vehicle, or require the operator or other person in charge of the vehicle to move it. The police officer may cause the vehicle to be removed by ordering any person engaged in the business of storing or towing motor vehicles to remove the vehicle to a site chosen by such person. Ownership of the vehicle shall be determined by the police officer's enforcement agency through the vehicle's license plates, serial number or other means of determining ownership. As soon as practicable, the police officer's enforcement agency shall notify the owner by mail that the vehicle was illegally upon public property; the name and address of the storage facility where the vehicle is located; that removal of the vehicle from the storage facility will involve payment of towing and storage charges; and that the vehicle may be sold pursuant to the provisions of KRS 376.275 if not claimed within ***thirty (30)***[~~sixty (60)~~] days. No notification shall be required if ownership cannot be determined. In the event of a sale pursuant to KRS 376.275, the state shall receive any proceeds after the satisfaction of all liens placed on the vehicle.

(3) No vehicle shall be parked, stopped, or allowed to stand on the shoulders of any toll road, interstate highway, or other fully controlled access highway, including ramps thereto, nor shall any vehicle registered at a gross weight of over forty-four thousand (44,000) pounds be parked, stopped or allowed to stand on the shoulders of any state-maintained highway except that in the case of emergency, or in response to a peace officer's signal, vehicles shall be permitted to stop on the shoulders to the right of the traveled way with all wheels and projecting parts of the vehicles, including the load, completely clear of the traveled way. Parking of any vehicle which is disabled on the shoulders of a toll road, interstate highway, other fully controlled access highway, including ramps thereto, or any state-maintained highway not mentioned in this section for twenty-four (24) hours continuously is prohibited and vehicles violating this provision may be towed away at the cost of the owner.

(4) When any police officer finds a vehicle unattended upon any bridge or causeway or in a tunnel where the vehicle constitutes an obstruction to traffic, the officer may provide for the removal of the vehicle to the nearest garage or other place of safety as provided in subsection (2) of this section.

(5) No person shall stop or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in the following places:
  (a) On a sidewalk;
  (b) In front of sidewalk ramps provided for persons with disabilities;
  (c) In front of a public or private driveway;
  (d) Within an intersection;
  (e) At any place where official signs prohibit stopping or parking; or
  (f) Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway.

(6) No person shall move a vehicle not lawfully under his control into any such prohibited area.

(7) The restrictions in subsection (5)(e) of this section shall not apply to sheriffs and their deputies or police officers when operating properly identified vehicles during performance of their official duties.

Section 2. KRS 376.275 is amended to read as follows:

(1) When a motor vehicle has been involuntarily towed or transported pursuant to order of police, other public authority, or private person or business for any reason or when the vehicle has been stolen or misappropriated and its removal from the public ways has been ordered by police, other public authority, or by private person or business, or in any other situation where a motor vehicle has been involuntarily towed or transported by order of police, other authority, or by private person or business, the police, other authority, private person or business shall attempt to ascertain from the Transportation Cabinet the identity of the registered owner of the motor vehicle or lessor of a motor carrier as defined in KRS Chapter 281 and within ten (10) business days of the removal shall, by certified mail, attempt to notify the registered owner at the address of record of the make, model, license number and vehicle identification number of the vehicle and of the location of the vehicle, and the requirements for securing the release of said motor vehicle.

(2) If a vehicle described in subsection (1) of this section is placed in a garage or other storage facility, the owner of the facility shall attempt to provide the notice provided in subsection (1) of this section, by certified mail, to the registered owner at the address of record of the motor vehicle or lessor of a motor carrier as defined in KRS Chapter 281 within ten (10) business days of recovery of, or taking possession of the motor vehicle. The notice shall contain the information as to the make, model, license number and vehicle identification number of the vehicle, the location of the vehicle and the amount of reasonable charges due on the vehicle. When the owner of the facility fails to provide notice as provided herein, the motor vehicle storage facility shall forfeit all storage fees accrued after ten (10) business days from the date of tow. This subsection shall not apply to a garage or storage facility owned or operated by a government entity.

(3) Any person engaged in the business of storing or towing motor vehicles, who has substantially complied with the aforementioned requirements of this section, shall have a lien on the motor vehicle, for the reasonable or agreed charges for storing or towing the vehicle, as long as it remains in his possession. If after a period of ***thirty (30)***[~~forty-five (45)~~] days the reasonable or agreed charges for storing or towing a motor vehicle have not been paid, the motor vehicle may be sold to pay the charges after the owner has been notified by certified mail ten (10) days prior to the time and place of the sale. If the proceeds of the sale of any vehicle pursuant to this section are insufficient to satisfy accrued charges for towing, transporting, and storage, the sale and collection of proceeds shall not constitute a waiver or release of responsibility for payment of unpaid towing, transporting, and storage charges by the owner or responsible casualty insurer of the vehicle. This lien shall be subject to prior recorded liens.

(4) The provisions of this section shall not apply when a local government causes a vehicle to be towed pursuant to KRS 82.605 to 82.640 or if state government causes a vehicle to be towed.".

Floor Amendment No. 1 to the Committee Substitute to **HB 540**, by Representative Nunn:

HB 540, On page 1, beginning on line 1 in front of "Section 1.", by inserting the following:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

For purposes of KRS Chapter 6, "bullying" means any deliberate and repeated force or threat of force to willfully injure, intimidate, interfere with, or threaten a legislator that has the effect of:

(1) Physically harming a legislator;

(2) Damaging a legislator's property;

(3) Materially or substantially disrupting the orderly operation of the legislative process; or

(4) Creating a hostile environment which substantially interferes with a legislator's constitutional responsibilities or performance or with a legislator's physical or psychological well-being.

Section 2. KRS 6.706 is amended to read as follows:

(1) The ethics education manual shall include, but not be limited to, ethics statutes, administrative regulations, explanations of purposes and principles underlying the laws, explanations of technical and specific legal requirements, examples of

practical applications of the laws and principles, a questions-and-answers section regarding common problems and situations, summaries of advisory opinions, and any other information which would inform legislators about the required standards of conduct and assist them in applying those standards to specific situations.

(2) *The commission shall include within the manual the definition of bullying under Section 1 of this Act, examples of behaviors that would constitute bullying under the definition, and ideas for prevention, intervention, and follow-up services for the bully and the victim. The commission shall specify the procedures for reporting any incident of repeated and deliberate bullying and procedures for the prompt investigation of the complaint or review by the legislative ethics commission.*

(3) The commission shall provide for the distribution of the manual to legislators. The commission shall distribute the first manual no later than one hundred twenty (120) days after appointment of the commission. On or before January 1, 1995, the commission shall distribute a supplement including, but not limited to, updates, additions, and revisions. Thereafter, the commission shall distribute revised and updated versions of the manual on or before January 1 of each odd-numbered year.

(4)[~~(3)~~] Copies of the manual shall be made available to the public for a reasonable fee, not to exceed the actual cost, but not including the cost of staff required.

Section 3. KRS 6.711 is amended to read as follows:

(1) The commission shall design the general curriculum of orientation courses, which shall include, but not be limited to, explanations and discussions of the ethics laws, administrative regulations, relevant internal policies, specific technical and legal requirements, summaries of advisory opinions, underlying purposes and principles of ethics laws, examples of practical application of the laws and principles, and a question-and-answer participatory segment regarding common problems and situations. The commission shall prepare the methods and materials necessary to implement the curriculum.

(2) The commission shall:

(a) Administer the orientation courses for legislators;

(b) Designate instructors to conduct their courses who shall be trained by the commission; and

(c) Notify legislators regarding attendance in these courses.

(3) The orientation courses shall be conducted in January of each odd-numbered year. Each course shall be at least three (3) hours in length and shall be designed for approval by the Kentucky Bar Association for continuing legal education ethics credits which the bar association may require.

(4) To facilitate participant interaction, those portions of the courses dedicated to group participation shall be closed to the public.

(5) Each legislator shall complete the initial orientation course offered under this section. Each legislator elected after the initial orientation course shall complete the next orientation course conducted. The commission may grant permission for a legislator to attend a later course for good cause shown.

(6) The majority and minority leadership of each chamber of the General Assembly shall ensure that members annually discuss, as part of their continuing education on legislative ethics, the prohibition against bullying other legislators and members and understand that bullying is prohibited under the legislative code."; and

Renumbering all subsequent sections accordingly; and

On page 3, line 26, by deleting "*Section 1*" and inserting "*Section 4*" in lieu thereof.

Floor Amendment No. 2 Title to **HB 540**, by Representative Nunn:

HB 540, Change title to read "AN ACT relating to the safety and well-being of students and legislators.".

Floor Amendment No. 1 to **HB 146**, by Representative Marzian:

HB 146, On page 2, after line 25, by inserting the following:

"Section 2. KRS 189.515 is amended to read as follows:

(1) Except for vehicles authorized to operate on a public highway as of July 15, 1998, and except as provided in subsection (6) of this section, a person shall not operate an all-terrain vehicle upon any public highway or roadway or upon the right-of-way of any public highway or roadway.

(2) A person shall not operate an all-terrain vehicle on private property without the consent of the landowner, tenant, or individual responsible for the property.

(3) A person shall not operate an all-terrain vehicle on public property unless the governmental agency responsible for the property has approved the use of all-terrain vehicles.

(4) Except for vehicles authorized to operate on a public highway, a person operating an all-terrain vehicle[~~ on public property~~] shall wear approved protective headgear, in the manner prescribed by the secretary of the Transportation

Cabinet, at all times that the vehicle is in motion.[~~ The approved headgear requirement shall not apply when the operator of any all-terrain vehicle is engaged in:~~

~~(a) Farm or agriculture related activities;~~

~~(b) Mining or mining exploration activities;~~

~~(c) Logging activities;~~

~~(d) Any other business, commercial, or industrial activity; or~~

~~(e) Use of that vehicle on private property.~~]

(5) [~~(a)~~]A person under the age of sixteen (16) years shall not operate an all-terrain vehicle[~~ with an engine size exceeding ninety (90) cubic centimeters displacement, and a person under the age of sixteen (16) years shall not operate an all-terrain vehicle except under direct parental supervision.~~

~~(b) A person under the age of twelve (12) years shall not operate an all-terrain vehicle with an engine size exceeding seventy (70) cubic centimeters displacement~~].

(6) (a) A person may operate an all-terrain vehicle on any two (2) lane public highway in order to cross the highway. In crossing the highway under this paragraph, the operator shall cross the highway at as close to a ninety (90) degree angle as is practical and safe, and shall not travel on the highway for more than two-tenths (2/10) of a mile.

(b) A person may operate an all-terrain vehicle on any two (2) lane public highway, if the operator is engaged in farm or agricultural related activities, construction, road maintenance, or snow removal.

(c) The Transportation Cabinet may designate, and a city or county government may designate, those public highways, segments of public highways, and adjoining rights-of-way of public highways under its jurisdiction where all-terrain vehicles that are prohibited may be operated.

(d) A person operating an all-terrain vehicle on a public highway under this subsection shall possess a valid operator's license.

(e) A person operating an all-terrain vehicle on a public highway under this subsection shall comply with all applicable traffic regulations.

(f) A person shall not operate an all-terrain vehicle under this subsection unless the all-terrain vehicle has at least one (1) headlight and two (2) taillights, which shall be illuminated at all times the vehicle is in operation.

(g) A person operating an all-terrain vehicle under this subsection shall restrict the operation to daylight hours, except when engaged in snow removal or emergency road maintenance.

Section 3. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents ($0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars ($100) and shall not be more than five hundred dollars ($500).

(b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars ($100); otherwise, the penalties in paragraph (a) of this subsection shall apply.

(c) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510[~~ or KRS 189.515~~] shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) ***Any person who violates Section 2 of this Act shall be sentenced to community service for twenty (20) hours for the first offense. A second or subsequent offense shall result in a fine of one hundred dollars ($100), fifty dollars ($50) of which shall be deposited in the traumatic brain injury trust fund established under KRS 211.476. Funds collected under this subsection shall not apply to the limits established under KRS 42.320(2)(d).***

(9) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10)[~~(9)~~] (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(11)[~~(10)~~] Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(12)[~~(11)~~] Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(13)[~~(12)~~] The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(14)[~~(13)~~] Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(15)[~~(14)~~] Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(16)[~~(15)~~] Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(17)[~~(16)~~] Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(18)[~~(17)~~] (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(19)[~~(18)~~] Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(20)[~~(19)~~] Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(21)[~~(20)~~] Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be

subject to the penalties prescribed in KRS 17.157.

(22)[~~(21)~~] A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(23)[~~(22)~~] Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(24)[~~(23)~~] Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(25)[~~(24)~~] Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(26)[~~(25)~~] Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(27)[~~(26)~~] Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(28)[~~(27)~~] A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

Section 4. KRS 186.574 is amended to read as follows:

(1) The Transportation Cabinet shall establish a state traffic school for new drivers and for traffic offenders. The school shall be composed of uniform education and training elements designed to create a lasting influence on new drivers and a corrective influence on traffic offenders. District Courts may in lieu of assessing penalties for traffic offenses, other than for KRS 189A.010, sentence offenders to state traffic school and no other. The Transportation Cabinet shall enroll a person in state traffic school who fails to complete a driver's education course pursuant to KRS 186.410(5).

(2) If a District Court stipulates in its judgment of conviction that a person attend state traffic school, the court shall indicate this in the space provided on the abstract of conviction filed with the Transportation Cabinet. Upon receipt of an abstract, the Transportation Cabinet, or its representative, shall schedule the person to attend state traffic school. Failure of the person to attend and satisfactorily complete state traffic school in compliance with the court order, may be punished as contempt of the sentencing court.

(3) The Transportation Cabinet shall supervise, operate, and administer state traffic school, and shall promulgate administrative regulations pursuant to KRS Chapter 13A governing facilities, equipment, courses of instruction, instructors, and records of the program. In the event a person sentenced under subsection (1) of this section does not attend or satisfactorily complete state traffic school, the Transportation Cabinet may deny that person a license or suspend the license of that person until he reschedules attendance or completes state traffic school, at which time a denial or suspension shall be rescinded.

(4) Persons participating in the state traffic school as provided in this section shall pay a fee of fifteen dollars ($15) to defray the cost of operating the school, except that if enrollment in state traffic school is to satisfy the requirement of KRS 186.410(4)(c), a fee shall not be assessed. Any funds collected pursuant to KRS 186.535(1) that are dedicated to the road fund for use in the state driver education program may be used for the purposes of state traffic school.

(5) The following procedures shall govern persons attending state traffic school pursuant to this section:

(a) A person convicted of any violation of traffic codes set forth in KRS Chapters 177, 186, or 189, and who is otherwise eligible, may in the sole discretion of the trial judge, be sentenced to attend state traffic school. Upon payment of the fee required by subsection (4) of this section, and upon successful completion of state traffic school, the sentence to state traffic school shall be the person's penalty in lieu of any other penalty, except for the payment of court costs;

(b) Except as provided in KRS 189.990*(28)*[~~(27)~~], a person shall not be eligible to attend state traffic school who has been cited for a violation of KRS Chapters 177, 186, or 189 that has a penalty of mandatory revocation or suspension of an offender's driver's license;

(c) Except as provided in KRS 189.990*(28)*[~~(27)~~], a person shall not be eligible to attend state traffic school for any violation if, at the time of the violation, the person did not have a valid driver's license or the person's driver's license was suspended or revoked by the cabinet;

(d) Except as provided in KRS 189.990*(28)*[~~(27)~~], a person shall not be eligible to attend state traffic school more than once in any one (1) year period, unless the person wants to attend state traffic school to comply with the driver education requirements of KRS 186.410; and

(e) The cabinet shall notify the sentencing court regarding any person who was sentenced to attend state traffic school who was ineligible to attend state traffic school. A court notified by the cabinet pursuant to this paragraph shall return the person's case to an active calendar for a hearing on the matter. The court shall issue a summons for the person to appear and the person shall demonstrate to the court why an alternative sentence should not be imposed.".

Floor Amendment No. 2 Title to **HB 146**, by Representative Marzian:

HB 146, By amending the title to read "AN ACT relating to minors.".

Floor Amendment No. 1 to **HCR 17**, by Representative Marzian:

HCR 17, On page 1, at the end of the second "WHEREAS" clause by inserting the following:

"and

WHEREAS, it is the opinion of this General Assembly that the sanctity of marriage is to be protected and preserved by government; and

WHEREAS, a primary assault on the legally sanctioned union of marriage is infidelity and adultery, which corrupts marriage and often leads to divorce; and

WHEREAS, adulterous behavior is condemned by almost all religions; and

WHEREAS, significant penalties for adulterous behavior are necessary to promote, protect, and defend the legally sanctioned union of marriage;";

On page 1, between lines 4 and 5, by inserting the following:

"Section 2. The House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein, urges the Congress of the United States to enact federal laws to criminalize adulterous behavior and to establish penalties for such behavior that include significant fines and incarceration for no less than two years."; and

On page 1, line 5, by deleting "Section 2." and inserting "Section 3." in lieu thereof.

Floor Amendment No. 2 to **HB 261**, by Representative Marzian:

HB 261, On page 5, after line 20, by inserting the following:

"Section 3. KRS 189.515 is amended to read as follows:

(1) Except for vehicles authorized to operate on a public highway as of July 15, 1998, and except as provided in subsection (6) of this section, a person shall not operate an all-terrain vehicle upon any public highway or roadway or upon the right-of-way of any public highway or roadway.

(2) A person shall not operate an all-terrain vehicle on private property without the consent of the landowner, tenant, or individual responsible for the property.

(3) A person shall not operate an all-terrain vehicle on public property unless the governmental agency responsible for the property has approved the use of all-terrain vehicles.

(4) Except for vehicles authorized to operate on a public highway, a person operating an all-terrain vehicle[~~ on public property~~] shall wear approved protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times that the vehicle is in motion.[~~ The approved headgear requirement shall not apply when the operator of any all-terrain vehicle is engaged in:~~

~~(a) Farm or agriculture related activities;~~

~~(b) Mining or mining exploration activities;~~

~~(c) Logging activities;~~

~~(d) Any other business, commercial, or industrial activity; or~~

~~(e) Use of that vehicle on private property.~~]

(5) [~~(a)~~]A person under the age of sixteen (16) years shall not operate an all-terrain vehicle[~~ with an engine size exceeding ninety (90) cubic centimeters displacement, and a person under the age of sixteen (16) years shall not operate an all-terrain vehicle except under direct parental supervision.~~

~~(b) A person under the age of twelve (12) years shall not operate an all terrain vehicle with an engine size exceeding seventy (70) cubic centimeters displacement~~].

(6) (a) A person may operate an all-terrain vehicle on any two (2) lane public highway in order to cross the highway. In crossing the highway under this paragraph, the operator shall cross the highway at as close to a ninety (90) degree

angle as is practical and safe, and shall not travel on the highway for more than two-tenths (2/10) of a mile.

(b) A person may operate an all-terrain vehicle on any two (2) lane public highway, if the operator is engaged in farm or agricultural related activities, construction, road maintenance, or snow removal.

(c) The Transportation Cabinet may designate, and a city or county government may designate, those public highways, segments of public highways, and adjoining rights-of-way of public highways under its jurisdiction where all-terrain vehicles that are prohibited may be operated.

(d) A person operating an all-terrain vehicle on a public highway under this subsection shall possess a valid operator's license.

(e) A person operating an all-terrain vehicle on a public highway under this subsection shall comply with all applicable traffic regulations.

(f) A person shall not operate an all-terrain vehicle under this subsection unless the all-terrain vehicle has at least one (1) headlight and two (2) taillights, which shall be illuminated at all times the vehicle is in operation.

(g) A person operating an all-terrain vehicle under this subsection shall restrict the operation to daylight hours, except when engaged in snow removal or emergency road maintenance.

Section 4. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents ($0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars ($100) and shall not be more than five hundred dollars ($500).

(b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars ($100); otherwise, the penalties in paragraph (a) of this subsection shall apply.

(c) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510[~~ or KRS 189.515~~] shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) ***Any person who violates Section 3 of this Act shall be sentenced to community service for twenty (20) hours for the first offense. A second or subsequent offense shall result in a fine of one hundred dollars ($100), fifty dollars ($50) of which shall be deposited in the traumatic brain injury trust fund established under KRS 211.476. Funds collected under this subsection shall not apply to the limits established under KRS 42.320(2)(d).***

(9) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10)[~~(9)~~] (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(11)[~~(10)~~] Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(12)[~~(11)~~] Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(13)[~~(12)~~] The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(14)[~~(13)~~] Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(15)[~~(14)~~] Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(16)[~~(15)~~] Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(17)[~~(16)~~] Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(18)[~~(17)~~] (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(19)[~~(18)~~] Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(20)[~~(19)~~] Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(21)[~~(20)~~] Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(22)[~~(21)~~] A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(23)[~~(22)~~] Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(24)[~~(23)~~] Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(25)[~~(24)~~] Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(26)[~~(25)~~] Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(27)[~~(26)~~] Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(28)[~~(27)~~] A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

Section 5. KRS 186.574 is amended to read as follows:

(1) The Transportation Cabinet shall establish a state traffic school for new drivers and for traffic offenders. The school shall be composed of uniform education and training elements designed to create a lasting influence on new drivers and a corrective influence on traffic offenders. District Courts may in lieu of assessing penalties for traffic offenses, other than for KRS 189A.010, sentence offenders to state traffic school and no other. The Transportation Cabinet shall enroll a person in state traffic school who fails to complete a driver's education course pursuant to KRS 186.410(5).

(2) If a District Court stipulates in its judgment of conviction that a person attend state traffic school, the court shall indicate this in the space provided on the abstract of conviction filed with the Transportation Cabinet. Upon receipt of an abstract, the Transportation Cabinet, or its representative, shall schedule the person to attend state traffic school. Failure of the person to attend and satisfactorily complete state traffic school in compliance with the court order, may be punished as contempt of the sentencing court.

(3) The Transportation Cabinet shall supervise, operate, and administer state traffic school, and shall promulgate administrative regulations pursuant to KRS Chapter 13A governing facilities, equipment, courses of instruction, instructors, and records of the program. In the event a person sentenced under subsection (1) of this section does not attend or satisfactorily complete state traffic school, the Transportation Cabinet may deny that person a license or suspend the license of that person until he reschedules attendance or completes state traffic school, at which time a denial or suspension shall be rescinded.

(4) Persons participating in the state traffic school as provided in this section shall pay a fee of fifteen dollars ($15) to defray the cost of operating the school, except that if enrollment in state traffic school is to satisfy the requirement of KRS 186.410(4)(c), a fee shall not be assessed. Any funds collected pursuant to KRS 186.535(1) that are dedicated to the road fund for use in the state driver education program may be used for the purposes of state traffic school.

(5) The following procedures shall govern persons attending state traffic school pursuant to this section:

(a) A person convicted of any violation of traffic codes set forth in KRS Chapters 177, 186, or 189, and who is otherwise eligible, may in the sole discretion of the trial judge, be sentenced to attend state traffic school. Upon payment of the fee required by subsection (4) of this section, and upon successful completion of state traffic school, the sentence to state traffic school shall be the person's penalty in lieu of any other penalty, except for the payment of court costs;

(b) Except as provided in KRS 189.990*(28)*[~~(27)~~], a person shall not be eligible to attend state traffic school who has been cited for a violation of KRS Chapters 177, 186, or 189 that has a penalty of mandatory revocation or suspension of an offender's driver's license;

(c) Except as provided in KRS 189.990*(28)*[~~(27)~~], a person shall not be eligible to attend state traffic school for any violation if, at the time of the violation, the person did not have a valid driver's license or the person's driver's license was suspended or revoked by the cabinet;

(d) Except as provided in KRS 189.990*(28)*[~~(27)~~], a person shall not be eligible to attend state traffic school more than once in any one (1) year period, unless the person wants to attend state traffic school to comply with the driver education requirements of KRS 186.410; and

(e) The cabinet shall notify the sentencing court regarding any person who was sentenced to attend state traffic school who was ineligible to attend state traffic school. A court notified by the cabinet pursuant to this paragraph shall return the person's case to an active calendar for a hearing on the matter. The court shall issue a summons for the person to appear and the person shall demonstrate to the court why an alternative sentence should not be imposed.".

Floor Amendment No. 3 Title to **HB 261**, by Representative Marzian:

HB 261, By amending the title to read "AN ACT relating to health.".

Floor Amendment No. 1 to **HB 132**, by Representative Marzian:

HB 132, On page 7, between lines 18 and 19, by inserting the following:

"Section 4. KRS 189.515 is amended to read as follows:

(1) Except for vehicles authorized to operate on a public highway as of July 15, 1998, and except as provided in subsection (6)

of this section, a person shall not operate an all-terrain vehicle upon any public highway or roadway or upon the right-of-way of any public highway or roadway.

(2) A person shall not operate an all-terrain vehicle on private property without the consent of the landowner, tenant, or individual responsible for the property.

(3) A person shall not operate an all-terrain vehicle on public property unless the governmental agency responsible for the property has approved the use of all-terrain vehicles.

(4) Except for vehicles authorized to operate on a public highway, a person operating an all-terrain vehicle[~~ on public property~~] shall wear approved protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times that the vehicle is in motion.[~~ The approved headgear requirement shall not apply when the operator of any all-terrain vehicle is engaged in:~~

~~(a) Farm or agriculture related activities;~~

~~(b) Mining or mining exploration activities;~~

~~(c) Logging activities;~~

~~(d) Any other business, commercial, or industrial activity; or~~

~~(e) Use of that vehicle on private property.~~]

(5) [~~(a)~~]A person under the age of sixteen (16) years shall not operate an all-terrain vehicle[~~ with an engine size exceeding ninety (90) cubic centimeters displacement, and a person under the age of sixteen (16) years shall not operate an all-terrain vehicle except under direct parental supervision.~~

~~(b) A person under the age of twelve (12) years shall not operate an all-terrain vehicle with an engine size exceeding seventy (70) cubic centimeters displacement~~].

(6) (a) A person may operate an all-terrain vehicle on any two (2) lane public highway in order to cross the highway. In crossing the highway under this paragraph, the operator shall cross the highway at as close to a ninety (90) degree angle as is practical and safe, and shall not travel on the highway for more than two-tenths (2/10) of a mile.

(b) A person may operate an all-terrain vehicle on any two (2) lane public highway, if the operator is engaged in farm or agricultural related activities, construction, road maintenance, or snow removal.

(c) The Transportation Cabinet may designate, and a city or county government may designate, those public highways, segments of public highways, and adjoining rights-of-way of public highways under its jurisdiction where all-terrain vehicles that are prohibited may be operated.

(d) A person operating an all-terrain vehicle on a public highway under this subsection shall possess a valid operator's license.

(e) A person operating an all-terrain vehicle on a public highway under this subsection shall comply with all applicable traffic regulations.

(f) A person shall not operate an all-terrain vehicle under this subsection unless the all-terrain vehicle has at least one (1) headlight and two (2) taillights, which shall be illuminated at all times the vehicle is in operation.

(g) A person operating an all-terrain vehicle under this subsection shall restrict the operation to daylight hours, except when engaged in snow removal or emergency road maintenance.

Section 5. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents ($0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars ($100) and shall not be more than five hundred dollars ($500).

(b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars ($100); otherwise, the penalties in paragraph (a) of this subsection shall apply.

(c) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510[~~ or KRS 189.515~~] shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) ***Any person who violates Section 4 of this Act shall be sentenced to community service for twenty (20) hours for the first offense. A second or subsequent offense shall result in a fine of one hundred dollars ($100), fifty dollars ($50) of which shall be deposited in the traumatic brain injury trust fund established under KRS 211.476. Funds collected under this subsection shall not apply to the limits established under KRS 42.320(2)(d).***

(9) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10)[~~(9)~~] (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(11)[~~(10)~~] Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(12)[~~(11)~~] Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(13)[~~(12)~~] The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(14)[~~(13)~~] Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(15)[~~(14)~~] Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(16)[~~(15)~~] Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(17)[~~(16)~~] Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(18)[~~(17)~~] (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(19)[~~(18)~~] Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(20)[~~(19)~~] Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(21)[~~(20)~~] Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(22)[~~(21)~~] A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(23)[~~(22)~~] Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(24)[~~(23)~~] Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(25)[~~(24)~~] Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(26)[~~(25)~~] Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(27)[~~(26)~~] Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(28)[~~(27)~~] A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

Section 6. KRS 186.574 is amended to read as follows:

(1) The Transportation Cabinet shall establish a state traffic school for new drivers and for traffic offenders. The school shall be composed of uniform education and training elements designed to create a lasting influence on new drivers and a corrective influence on traffic offenders. District Courts may in lieu of assessing penalties for traffic offenses, other than for KRS 189A.010, sentence offenders to state traffic school and no other. The Transportation Cabinet shall enroll a person in state traffic school who fails to complete a driver's education course pursuant to KRS 186.410(5).

(2) If a District Court stipulates in its judgment of conviction that a person attend state traffic school, the court shall indicate this in the space provided on the abstract of conviction filed with the Transportation Cabinet. Upon receipt of an abstract, the Transportation Cabinet, or its representative, shall schedule the person to attend state traffic school. Failure of the person to attend and satisfactorily complete state traffic school in compliance with the court order, may be punished as contempt of the sentencing court.

(3) The Transportation Cabinet shall supervise, operate, and administer state traffic school, and shall promulgate administrative regulations pursuant to KRS Chapter 13A governing facilities, equipment, courses of instruction, instructors, and records of the program. In the event a person sentenced under subsection (1) of this section does not attend or satisfactorily complete state traffic school, the Transportation Cabinet may deny that person a license or suspend the license of that person until he reschedules attendance or completes state traffic school, at which time a denial or suspension shall be rescinded.

(4) Persons participating in the state traffic school as provided in this section shall pay a fee of fifteen dollars ($15) to defray the cost of operating the school, except that if enrollment in state traffic school is to satisfy the requirement of KRS 186.410(4)(c), a fee shall not be assessed. Any funds collected pursuant to KRS 186.535(1) that are dedicated to the road fund for use in the state driver education program may be used for the purposes of state traffic school.

(5) The following procedures shall govern persons attending state traffic school pursuant to this section:

(a) A person convicted of any violation of traffic codes set forth in KRS Chapters 177, 186, or 189, and who is otherwise eligible, may in the sole discretion of the trial judge, be sentenced to attend state traffic school. Upon payment of the fee required by subsection (4) of this section, and upon successful completion of state traffic school, the sentence to state traffic school shall be the person's penalty in lieu of any other penalty, except for the payment of court costs;

(b) Except as provided in KRS 189.990*(28)*[~~(27)~~], a person shall not be eligible to attend state traffic school who has been cited for a violation of KRS Chapters 177, 186, or 189 that has a penalty of mandatory revocation or suspension of an offender's driver's license;

(c) Except as provided in KRS 189.990*(28)*[~~(27)~~], a person shall not be eligible to attend state traffic school for any violation if, at the time of the violation, the person did not have a valid driver's license or the person's driver's license was suspended or revoked by the cabinet;

(d) Except as provided in KRS 189.990*(28)*[~~(27)~~], a person shall not be eligible to attend state traffic school more than once in any one (1) year period, unless the person wants to attend state traffic school to comply with the driver education requirements of KRS 186.410; and

(e) The cabinet shall notify the sentencing court regarding any person who was sentenced to attend state traffic school who was ineligible to attend state traffic school. A court notified by the cabinet pursuant to this paragraph shall return the person's case to an active calendar for a hearing on the matter. The court shall issue a summons for the person to appear and the person shall demonstrate to the court why an alternative sentence should not be imposed."; and

On page 7, line 19, by deleting "4" and inserting "7" in lieu thereof.

Floor Amendment No. 2 Title to **HB 132**, by Representative Marzian:

HB 132, By amending the title to read "AN ACT relating to safety, and declaring an emergency.".

Floor Amendment No. 2 to the Committee Substitute to **HB 324**, by Representative Marzian:

HB 324, On page 2, after line 2, by inserting the following:

"Section 2. KRS 189.515 is amended to read as follows:

(1) Except for vehicles authorized to operate on a public highway as of July 15, 1998, and except as provided in subsection (6) of this section, a person shall not operate an all-terrain vehicle upon any public highway or roadway or upon the right-of-way of any public highway or roadway.

(2) A person shall not operate an all-terrain vehicle on private property without the consent of the landowner, tenant, or individual responsible for the property.

(3) A person shall not operate an all-terrain vehicle on public property unless the governmental agency responsible for the property has approved the use of all-terrain vehicles.

(4) Except for vehicles authorized to operate on a public highway, a person operating an all-terrain vehicle[~~ on public property~~] shall wear approved protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times that the vehicle is in motion.[~~ The approved headgear requirement shall not apply when the operator of any all-terrain vehicle is engaged in:~~

~~(a) Farm or agriculture related activities;~~

~~(b) Mining or mining exploration activities;~~

~~(c) Logging activities;~~

~~(d) Any other business, commercial, or industrial activity; or~~

~~(e) Use of that vehicle on private property.~~]

(5) [~~(a)~~]A person under the age of sixteen (16) years shall not operate an all-terrain vehicle[~~ with an engine size exceeding ninety (90) cubic centimeters displacement, and a person under the age of sixteen (16) years shall not operate an all-terrain vehicle except under direct parental supervision.~~

~~(b) A person under the age of twelve (12) years shall not operate an all terrain vehicle with an engine size exceeding seventy (70) cubic centimeters displacement~~].

(6) (a) A person may operate an all-terrain vehicle on any two (2) lane public highway in order to cross the highway. In crossing the highway under this paragraph, the operator shall cross the highway at as close to a ninety (90) degree angle as is practical and safe, and shall not travel on the highway for more than two-tenths (2/10) of a mile.

(b) A person may operate an all-terrain vehicle on any two (2) lane public highway, if the operator is engaged in farm or agricultural related activities, construction, road maintenance, or snow removal.

(c) The Transportation Cabinet may designate, and a city or county government may designate, those public highways, segments of public highways, and adjoining rights-of-way of public highways under its jurisdiction where all-terrain vehicles that are prohibited may be operated.

(d) A person operating an all-terrain vehicle on a public highway under this subsection shall possess a valid operator's license.

(e) A person operating an all-terrain vehicle on a public highway under this subsection shall comply with all applicable traffic regulations.

(f) A person shall not operate an all-terrain vehicle under this subsection unless the all-terrain vehicle has at least one (1) headlight and two (2) taillights, which shall be illuminated at all times the vehicle is in operation.

(g) A person operating an all-terrain vehicle under this subsection shall restrict the operation to daylight hours, except when engaged in snow removal or emergency road maintenance.

Section 3. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents ($0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars ($100) and shall not be more than five hundred dollars ($500).

(b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars ($100); otherwise, the penalties in paragraph (a) of this subsection shall apply.

(c) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510[~~ or KRS 189.515~~] shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) ***Any person who violates Section 2 of this Act shall be sentenced to community service for twenty (20) hours for the first offense. A second or subsequent offense shall result in a fine of one hundred dollars ($100), fifty dollars ($50) of which shall be deposited in the traumatic brain injury trust fund established under KRS 211.476. Funds collected under this subsection shall not apply to the limits established under KRS 42.320(2)(d).***

(9) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10)[~~(9)~~] (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(11)[~~(10)~~] Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(12)[~~(11)~~] Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(13)[~~(12)~~] The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(14)[~~(13)~~] Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(15)[~~(14)~~] Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(16)[~~(15)~~] Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(17)[~~(16)~~] Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(18)[~~(17)~~] (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(19)[~~(18)~~] Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(20)[~~(19)~~] Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(21)[~~(20)~~] Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(22)[~~(21)~~] A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(23)[~~(22)~~] Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(24)[~~(23)~~] Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(25)[~~(24)~~] Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(26)[~~(25)~~] Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(27)[~~(26)~~] Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(28)[~~(27)~~] A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

Section 4. KRS 186.574 is amended to read as follows:

(1) The Transportation Cabinet shall establish a state traffic school for new drivers and for traffic offenders. The school shall be composed of uniform education and training elements designed to create a lasting influence on new drivers and a corrective influence on traffic offenders. District Courts may in lieu of assessing penalties for traffic offenses, other than for KRS 189A.010, sentence offenders to state traffic school and no other. The Transportation Cabinet shall enroll a person in state traffic school who fails to complete a driver's education course pursuant to KRS 186.410(5).

(2) If a District Court stipulates in its judgment of conviction that a person attend state traffic school, the court shall indicate this in the space provided on the abstract of conviction filed with the Transportation Cabinet. Upon receipt of an abstract, the Transportation Cabinet, or its representative, shall schedule the person to attend state traffic school. Failure of the person to attend and satisfactorily complete state traffic school in compliance with the court order, may be punished as contempt of the sentencing court.

(3) The Transportation Cabinet shall supervise, operate, and administer state traffic school, and shall promulgate administrative regulations pursuant to KRS Chapter 13A governing facilities, equipment, courses of instruction, instructors, and records of the program. In the event a person sentenced under subsection (1) of this section does not attend or satisfactorily complete state traffic school, the Transportation Cabinet may deny that person a license or suspend the license of that person until he reschedules attendance or completes state traffic school, at which time a denial or suspension shall be rescinded.

(4) Persons participating in the state traffic school as provided in this section shall pay a fee of fifteen dollars ($15) to defray the cost of operating the school, except that if enrollment in state traffic school is to satisfy the requirement of KRS 186.410(4)(c), a fee shall not be assessed. Any funds collected pursuant to KRS 186.535(1) that are dedicated to the road fund for use in the state driver education program may be used for the purposes of state traffic school.

(5) The following procedures shall govern persons attending state traffic school pursuant to this section:

(a) A person convicted of any violation of traffic codes set forth in KRS Chapters 177, 186, or 189, and who is otherwise eligible, may in the sole discretion of the trial judge, be sentenced to attend state traffic school. Upon payment of the fee required by subsection (4) of this section, and upon successful completion of state traffic school, the sentence to state traffic school shall be the person's penalty in lieu of any other penalty, except for the payment of court costs;

(b) Except as provided in KRS 189.990*(28)*[~~(27)~~], a person shall not be eligible to attend state traffic school who has been cited for a violation of KRS Chapters 177, 186, or 189 that has a penalty of mandatory revocation or suspension of an offender's driver's license;

(c) Except as provided in KRS 189.990*(28)*[~~(27)~~], a person shall not be eligible to attend state traffic school for any violation if, at the time of the violation, the person did not have a valid driver's license or the person's driver's license was suspended or revoked by the cabinet;

(d) Except as provided in KRS 189.990*(28)*[~~(27)~~], a person shall not be eligible to attend state traffic school more than once in any one (1) year period, unless the person wants to attend state traffic school to comply with the driver education requirements of KRS 186.410; and

(e) The cabinet shall notify the sentencing court regarding any person who was sentenced to attend state traffic school who was ineligible to attend state traffic school. A court notified by the cabinet pursuant to this paragraph shall return the person's case to an active calendar for a hearing on the matter. The court shall issue a summons for the person to appear and the person shall demonstrate to the court why an alternative sentence should not be imposed.".

Floor Amendment No. 3 Title to **HB 324**, by Representative Marzian:

HB 324, By amending the title to read "AN ACT relating to consumer safety.".

Floor Amendment No. 1 to the Committee Substitute to **HB 461**, by Representative Ford:

HB 461, On page 8, between lines 17 and 18, by inserting the following:

"Section 7. Any one who has twenty (20) or more years of experience as either an electrical contractor or a heating, ventilation, and air conditioning contractor prior to July 15, 2004, shall qualify for licensure as an electrical contractor under KRS 227A.060 upon making application, paying the appropriate application fee, and documenting the appropriate years of experience in the respective area. The documentation required under this section shall be consistent with the documentation required under Section 4 of this Act."; and

On page 8, line 18, after "Section" by deleting "7" and inserting "8" in lieu thereof.

Floor Amendment No. 1 to **HB 395**, by Representative Ford:

HB 395, PART I

OPERATING BUDGET

A. General Government

Military Affairs

On page 6, line 16, delete "57,911,400" and insert "59,441,400" in lieu thereof; and

On page 6, line 18, delete "130,779,600" and insert "132,309,600" in lieu thereof;

Special Funds

Local Government Economic Development Fund

On page 9, line 7, delete "$770,500" and insert "$755,400" in lieu thereof; and

On page 11, after line 19, insert the following:

" **(15) Parameters for County Priorities:** Notwithstanding KRS 42.4592, Local Government Economic Development Fund allocations to each coal-producing county may be used to support the non-recurring investments in public health and safety, economic development, public infrastructure, information technology development and access, and public water and wastewater development with the concurrence of both the respective fiscal court and the Department for Local Government or the Kentucky Infrastructure Authority as appropriate.";

Total - General Government

On page 27, line 9, delete "184,629,100" and insert "186,159,100" in lieu thereof; and

On page 27, line 12, delete "645,236,800" and insert "646,766,800" in lieu thereof;

D. Department of Education

Operations and Support Services

On page 35, line 12, delete "10,673,400" and insert "10,573,400" in lieu thereof; and

On page 35, line 15, delete "13,055,600" and insert "12,955,600" in lieu thereof; and

On page 35, after line 23, insert the following:

" **(3) Management Assistance Program:** Included in the above General Fund appropriation is $200,000 in each fiscal year for the Management Assistance Program.";

Learning and Results Services

On page 35, line 27, delete "564,768,000" and "577,600,700" and insert "575,118,000" and "591,050,700" in lieu thereof; and

On page 36, line 3, delete "1,093,617,000" and "1,106,513,400" and insert "1,103,967,000" and "1,119,963,400" in lieu thereof; and

On page 36, delete lines 4 through 10; and

On page 36, line 11, delete "(3)" and insert "(1)" in lieu thereof; and

On page 36, line 11, delete "Included in the above" and delete lines 12 through 17; and

On page 37, line 2, delete "(4)" and insert "(2)" in lieu thereof; and

On page 37, line 7, delete "(5)" and insert "(3)" in lieu thereof; and

On page 37, line 20, delete "(6)" and insert "(4)" in lieu thereof; and

On page 38, delete lines 7 through 25 and insert in lieu thereof the following:

" **(5) Learning and Results Services Programs:** Included in the above General Fund appropriation are the following allocations for the 2004-2006 fiscal biennium:

(a) $17,586,400 in fiscal year 2004-2005 and $17,579,200 in fiscal year 2005-2006 for the Extended School Services program;

(b) $50,175,100 in each fiscal year for the Family Resource and Youth Service Centers program;

(c) $44,825,400 in each fiscal year for the Preschool program;

(d) $6,991,400 in fiscal year 2004-2005 and $8,034,700 in fiscal year 2005-2006 for the Professional Development program;

(e) $9,564,200 in each fiscal year for the Safe Schools program;

(f) $16,800,000 in fiscal year 2004-2005 and $16,300,000 in fiscal year 2005-2006 for the Education Technology program;

(g) $21,700,100 in each fiscal year for the Textbooks program;

(h) $1,764,000 in each fiscal year for the Commonwealth School Improvement Fund;

(i) $5,600,000 in each fiscal year for the Highly Skilled Educators program;

(j) $8,361,100 in fiscal year 2004-2005 and $8,369,200 in fiscal year 2005-2006 for the Commonwealth

Accountability Testing System (CATS);

(k) $616,500 in each fiscal year for the Blind/Deaf Residential Travel program;

(l) $1,695,300 in each fiscal year for the Community Education program;

(m) $720,900 in each fiscal year for the Dropout Prevention program;

(n) $6,100,000 in each fiscal year for the Early Reading Incentive Grant/Read to Achieve program;

(o) $6,409,400 in each fiscal year for the Gifted and Talented program;

(p) $4,005,600 in each fiscal year for the School Food Services match;

(q) $9,415,800 in each fiscal year for the State Agency Children program;

(r) $200,000 in each fiscal year for the Teacher Academies program;

(s) $1,000,000 in fiscal year 2004-2005 and $1,200,000 in fiscal year 2005-2006 for the Teacher Recruitment and Retention program;

(t) $200,000 in each fiscal year for the Virtual Learning program;

(u) $8,989,900 in each fiscal year for the Locally Operated Vocational Schools;

(v) $302,400 in fiscal year 2004-2005 and $233,300 in fiscal year 2005-2006 for the Writing program;

(w) $318,973,100 in fiscal year 2004-2005 and $334,111,500 in fiscal year 2005-2006 for Local School District Health Insurance; and

(x) $3,914,000 in each fiscal year for Local School District Life Insurance.

(6) Program Flexibility: Notwithstanding any statutes or administrative regulations to the contrary, the Department of Education, in concurrence with the Secretary of Education, shall determine the amount of funds appropriated within this budget unit that will be allocated directly to local school districts, which shall also be permitted flexibility in the allocation and implementation of the funds granted or allocated from the Department of Education from within this budget unit, upon review and approval by the Department. It is the intent of the General Assembly that local school districts effect the maximum administrative savings possible in order to increase funding to the classroom."; and

On page 38, line 26, delete "**(9)**" and insert "**(7)**" in lieu thereof; and

On page 39, line 3, delete "**(10)**" and insert "**(8)**" in lieu thereof; and

On page 39, line 8, delete "**(11)**" and insert "**(9)**" in lieu thereof;

Support Education Excellence in Kentucky (SEEK) Program

On page 39, line 15, delete "2,379,656,200" and "2,460,722,900" and insert "2,380,156,200" and "2,461,222,900" in lieu thereof; and

On page 40, line 6, delete "$21,452,600" both times it appears on that line and insert "$21,952,600" in lieu thereof; and

On page 40, line 21, after "KRS 157.395," delete the remainder of that line and lines 22 through 25 in their entirety and, in lieu thereof, insert "salary supplements shall be provided only for teachers attaining certification by the National Board of Professional Teaching Standards and for those teachers who have applied and successfully completed requirements for candidacy by February 1, 2004."; and

On page 42, line 16, delete "2009 - substitute teacher;"; and

On page 42, line 21, after "districts." insert "The one and one-half percent minimum pay increase in fiscal year 2004-2005 for all certified staff serving exclusively in the position of classroom teacher as well as for all classified staff and the additional three percent minimum pay increase in fiscal year 2005-2006 for those persons shall be in addition to the normal rank and step increases attained by certified personnel employed in local school districts."; and

On page 43, line 13, after "**Transfer:**" insert "Any" and delete "As provided" and on line 14, delete "in Part V, Funds Transfer, of this Act, any"; and

On page 43, line 18, after "Accountability" insert ", in concurrence with the Secretary of the Education Cabinet,";

Total - Education

On page 43, line 27, delete "2,955,400,700" and "3,049,684,900" and insert "2,966,250,700" and "3,063,534,900" in lieu thereof; and

On page 44, line 3, delete "3,487,163,900" and "3,580,979,800" and insert "3,498,013,900" and "3,594,829,800" in lieu thereof;

E. Education Cabinet

Teachers' Retirement System

On page 47, line 15, delete "6,623,000" and "6,623,000" and insert "8,147,900" and "8,613,500" in lieu thereof; and

On page 47, line 16, delete "109,417,600" and "119,746,600" and insert "110,942,500" and "121,737,100" in lieu thereof;

Technical Education

On page 50, line 2, delete "19,832,800" and "19,570,500" and insert "20,232,800" and "19,970,500" in lieu thereof; and

On page 50, line 4, delete "60,311,200" and "60,848,900" and insert "60,711,200" and "61,248,900" in lieu thereof;

Total - Education Cabinet

On page 51, line 26, delete "45,998,100" and "44,291,400" and insert "47,923,000" and "46,681,900" in lieu thereof; and

On page 52, line 1, delete "1,198,343,900" and "1,219,227,100" and insert "1,200,268,800" and "1,221,617,600" in lieu thereof;

F. Environmental and Public Protection Cabinet

General Administration and Program Support

On page 52, after line 9, insert the following:

" **(1) Reallocation of Specified Restricted Funds within the Environmental and Public Protection Cabinet:** Notwithstanding KRS 224.60-130 to 224.60-145, 287.485, and 304.2-400, the Secretary of the Environmental and Public Protection Cabinet may request the authorization to expend Restricted Funds for specified purposes, subject to the provisions of KRS 48.630.";

Public Advocacy

On page 59, after line 20, insert the following:

" **(1) Compensatory Leave Conversion to Sick Leave:** If the Department of Public Advocacy determines that internal budgetary pressures warrant further austerity measures, the Public Advocate may institute a policy to suspend payment of 50 hour blocks of compensatory time for those attorneys who have accumulated 240 hours of compensatory time and instead to convert those hours to sick leave.";

Workers' Compensation Funding Commission

On page 61, delete lines 2 and 3;

G. Finance and Administration Cabinet

Debt Service

On page 62, line 16, delete "274,329,600" and "282,680,400" and insert "261,355,000" and "279,603,600" in lieu thereof; and

On page 62, line 18, delete "283,376,200" and "291,298,600" and insert "270,401,600" and "288,221,800" in lieu thereof;

Total - Finance and Administration Cabinet

On page 66, line 24, delete "417,688,100" and "427,793,300" and insert "404,713,500" and "424,716,500" in lieu thereof; and

On page 67, line 1, delete "539,109,300" and "547,379,800" and insert "526,134,700" and "544,303,000";

H. Health and Family Services Cabinet

Medicaid Services

Benefits

On page 69, line 17, delete "General Fund" and insert "Restricted Funds" in lieu thereof;

I. Justice and Public Safety Cabinet

Local Jail Support

On page 80, line 11, delete "$400,000" and insert "$295,900" in lieu thereof; and

On page 80, line 12, delete "$400,000" and insert "$295,900" in lieu thereof;

J. Postsecondary Education

Kentucky Community and Technical College System (KCTCS)

On page 85, line 4, delete "183,224,700" and "184,823,800" and insert "179,989,900" and "181,315,700" in lieu thereof; and

On page 85, line 7, delete "492,834,500" and "532,548,800" and insert "489,599,700" and "529,040,700" in lieu thereof; and

On page 85, line 9, delete $9,242,900" and insert "$6,008,100" in lieu thereof and delete "$9,495,200" and insert "$5,987,100" in lieu thereof; and

On page 85, line 21, delete "2002-2004" and insert "2004-2006" in lieu thereof;

Kentucky State University

On page 86, line 3, delete "22,517,800" and insert "23,296,000" in lieu thereof; and

On page 86, line 6, delete "49,953,300" and insert "50,731,500" in lieu thereof; and

On page 86, line 8, delete "$95,300" and insert "$873,500" in lieu thereof;

Morehead State University

On page 86, line 12, delete "41,579,700" and "41,834,900" and insert "41,550,300" and "41,806,700" in lieu thereof; and

On page 86, line 15, delete "136,729,900" and "137,094,600" and insert "136,700,500" and "137,066,400" in lieu thereof; and

On page 86, line 17, delete "$1,433,000" and insert "$1,403,600" in lieu thereof and delete "$1,439,400" and insert "$1,411,200" in lieu thereof;

University of Kentucky

On page 87, line 12, delete "304,016,300" and "306,986,400" and insert "303,896,200" and "306,864,200" in lieu thereof; and

On page 87, line 15, delete "1,431,788,700" and "1,477,743,100" and insert "1,431,668,600" and "1,477,620,900" in lieu thereof; and

On page 87, line 17, delete "$7,263,600" and insert in lieu thereof "$7,143,500" and delete "$7,342,100" and insert "$7,129,900" in lieu thereof;

Total - Postsecondary Education

On page 89, line 3, delete "1,146,115,900" and "1,202,629,400" and insert "1,142,731,600" and "1,199,749,100" in lieu thereof; and

On page 89, line 6, delete "3,760,111,400" and "3,977,804,200" and insert "3,756,727,100" and "3,974,923,900" in lieu thereof;

K. Transportation Cabinet

Highways

On page 95, after line 2, insert the following:

" **(17) Grant Application Revenue Vehicle (GARVEE) Bonds:** Included in the above Restricted Funds appropriation is $23,000,000 in fiscal year 2004-2005 and $93,000,000 in fiscal year 2005-2006 for GARVEE Bond Funds. If project requirements or market conditions warrant issuance of the entire $116,000,000 GARVEE bond issue prior to fiscal year 2005-2006, that authority is approved, subject to the Federal Funds debt service appropriations contained in this section.";

PART II

CAPITAL PROJECTS BUDGET

A. General Government

Military Affairs

On page 103, after line 11, insert the following:

" 011. Hangar/Warehouse/Office Buildings - Bluegrass Station
Agency Bonds 10,000,000"(fiscal year 2004-2005);

C. Economic Development Cabinet

On page 105, after line 24, insert the following:

" **(3) Seeding Innovation Project:** The Kentucky Economic Development Finance Authority Board is encouraged to work with the Office for the New Economy to provide up to $500,000 each year of the 2004-2006 fiscal biennium to fund the Seeding Innovation Project for Kentucky's elementary and secondary schools.";

Secretary

On page 106, line 2, after "**Funds:**" delete "The" and insert "Notwithstanding KRS 164.020(11), the" in lieu thereof;

J. Postsecondary Education

Council on Postsecondary Education

On page 117, after line 16, insert the following:

" 003. Franklin County - Lease";

Kentucky State University

On page 118, line 26, delete "$3,672,000" and insert "$4,547,000" in lieu thereof;

PART III

GENERAL PROVISIONS

On page 163, line 24, after "Fund" insert " and Restricted Funds"; and

On page 164, after line 3, insert the following:

" **33. Budgeted General Fund Carry Forward:** Notwithstanding 48.700 to 48.705 and the provisions of Parts I, II, and VII of this Act, a total of $5,508,900 in the undesignated fiscal year 2004-2005 General Fund balance shall be carried forward and is appropriated in fiscal year 2005-2006 in the Department of Education SEEK and Learning and Results Services budget units.";

PART V

FUNDS TRANSFER

A. Government Operations

Local Government Economic Development Fund

On page 169, line 1, delete "2,860,200" and insert "5,244,200" in lieu thereof;

Board of Auctioneers

On page 169, line 20, delete "9,300" and insert "17,000" in lieu thereof;

Board of Nursing

On page 170, line 31, delete "110,700" and insert "102,700" in lieu thereof;

Board of Private Investigators

On page 171, line 5, delete "2,000" and insert "2,300" in lieu thereof;

D. Department of Education

Learning and Results Services

On page 172, line 10, delete "**Learning and Results Services -**" and insert "**Operations and**" in lieu thereof; and

On page 172, line 11, delete "**District**";

Total - Funds Transfer

On page 177, line 25, delete "81,359,300" and insert "83,743,300" in lieu thereof;

PART XI

STATE/EXECUTIVE BRANCH BUDGET SUMMARY

Operating Budget

On page 187, line 9, delete "7,056,352,400" and "7,293,246,300" and insert "7,050,843,500" and "7,301,139,200" in lieu thereof ; and

On page 187, line 10, delete "3,996,481,300" and "4,125,898,100" and insert "3,998,406,200" and "4,129,818,600" in lieu thereof; and

On Page 187, line 13, delete "18,635,805,800" and "18,960,747,000" and insert "18,632,221,800" and "18,792,560,400" in lieu thereof;

Capital Projects Budget

On page 187, line 21, delete "113,675,000" and insert "123,675,000" in lieu thereof and

On page 187, line 25, delete "2,669,979,200" and insert "2,679,979,200";

Total - State/Executive Budget

On page 188, line 2, delete "7,056,352,400" and "7,301,246,300" and insert "7,050,843,500" and "7,309,139,200" in lieu thereof; and

On page 188, line 3, delete "5,727,063,100" and "4,234,665,100" and insert "5,728,988,000" and "4,238,585,600" in lieu thereof; and

On page 188, line 7, delete "113,675,000" and insert "123,675,000" in lieu thereof; and

On page 188, line 11, delete "21,305,785,000" and "19,166,984,000" and insert "21,312,201,000" and "19,178,797,400" in lieu thereof.

SUMMARY: **State/Executive Branch Budget Totals:** Decreases Operating Budget General Fund appropriations by $5,508,900 in fiscal year 2004-2005, increases Operating Budget General Fund appropriations by $7,892,900 in fiscal year 2005-2006, increases Operating Budget Restricted Funds appropriations by $1,924,900 in fiscal year 2004-2005 and $3,920,500 in fiscal year 2005-2006, and increases Capital Budget Agency Bonds appropriations by $10,000,000 in fiscal year 2004-2005 as follows: **Department of Military Affairs:** Increases General Fund appropriation by $1,530,000 in fiscal year 2005-2006; adds a capital project of $10,000,000 in Agency Bonds in fiscal year 2004-2005 for a Hangar/Warehouse/Office Buildings at Bluegrass Station; **Local Government Economic Development Fund:** Decreases allocations to the Department for Regional Development by $15,100 in fiscal year 2004-2005, and adds language permitting allocations to coal-producing counties to be used to support non-recurring investments in public health and safety, economic development, public infrastructure, information technology development and access, and public water and wastewater development; **Economic Development Cabinet:** Adds language in Part II, Capital Projects Budget, encouraging the Kentucky Economic Development Finance Authority (KEDFA) Board to work with the Office for the New Economy to provide up to $500,000 each fiscal year to fund the Seeding Innovation Project for elementary and secondary schools; **Department of Education:** Decreases General Fund appropriations for the Operations and Support Services budget unit, by $100,000 in fiscal year 2005-2006 and allocates $200,000 in each fiscal year for a Management

Assistance Program; increases General Fund appropriations for Learning and Support Services by $10,350,000 in fiscal year 2004-2005 and $13,450,000 in fiscal year 2005-2006, deletes the allocation of $15,000 each fiscal year for the education technology escrow account, and deletes the allocation of $9,415,600 each fiscal year for reimbursements to local school districts for the education of state agency children and insert allocations for specific other purposes; deletes language allocating General Fund dollars of $322,887,100 in fiscal year 2004-2005 and $338,025,500 in fiscal year 2005-2006 for health and life insurance coverage for employees of local school districts; replaces language regarding program flexibility in determining the amount of funds to be allocated to local school districts; increases General Fund appropriations for the Support Education Excellence in Kentucky (SEEK) Program of $500,000 in each fiscal year for secondary vocational education in state-supported vocational schools; replaces language regarding salary supplements for nationally certified teachers to provide supplements only to teachers who attain national certification and teachers who have applied and successfully completed certification requirements by February 1, 2004; deletes substitute teachers from employees to receive the one and one-half percent salary increase in fiscal year 2004-2005 and three percent salary increase in fiscal year 2005-2006; adds language specifying that the salary increases in each fiscal year are in addition to normal rank and step increases for certified personnel; adds language concerning standards to be set by the Office of Education Accountability for local school district allocations of administrative and classroom moneys to include a requirement of the concurrence of the Secretary of the Education Cabinet; **Education Cabinet:** increases the Restricted Funds appropriations to the Teachers' Retirement System by $1,524,900 in fiscal year 2004-2005 and $1,990,500 in fiscal year 2005-2006; increases Restricted Funds appropriations to Department for Technical Education by $400,000 in each fiscal year; **Environmental and Public Protection Cabinet:** Adds language permitting the Secretary to reallocate specified Restricted Funds within the Cabinet; adds language authorizing the Department of Public Advocacy to convert some attorneys' compensatory time to sick leave if internal budgetary pressures warrant further austerity measures; deletes language regarding the freezing of the Workers' Compensation assessment at 11.5 percent for the biennium; **Finance and Administration Cabinet:** Decreases General Fund appropriations for debt service by $12,974,600 in fiscal year 2004-2005 and $3,076,800 in fiscal year 2005-2006; **Health and Family Services Cabinet:** Allocates $1,000,000 in fiscal year 2004-2005 for Supports for Community Living Slots from Restricted Funds instead of the General Fund; **Justice and Public Safety Cabinet:** Decreases the allocation of General Fund moneys for inmate medical care expenses by $104,100 in each fiscal year; **Postsecondary Education:** Makes a technical correction in Part II, Capital Projects Budget, to add a Franklin County lease; increases by $875,000 an agency bonds reauthorization to Kentucky State University for Young Hall renovation in Part II, Capital Projects Budget; decreases General Fund appropriations for debt service to the Kentucky Community and Technical College System (KCTSCS) by $3,234,800 in fiscal year 2004-2005 and $3,508,100 in fiscal year 2005-2006; increases General Fund appropriations for debt service to Kentucky State University by $778,200 in fiscal year 2005-2006; decreases General Fund appropriations for debt service to Morehead State University by $29,400 in fiscal year 2004-2005 and $28,200 in fiscal year 2005-2006; increases General Fund appropriations for debt service to the University of Kentucky by $120,100 in fiscal year 2004-2005 and $122,200 in fiscal year 2005-2006; **Transportation Cabinet:** Adds language allocating Restricted Funds appropriations of $23,000,000 in fiscal year 2004-2005 and $93,000,000 in fiscal year 2005-2006 for Grant Application Revenue Vehicle (GARVEE) Bond Funds; **General Provisions:** Adds language regarding Cabinet reallocations of appropriations among budget units to permit reallocations of Restricted Funds appropriations as well as General Fund appropriations; add language requiring a carry forward of $5,508,900 in the undesignated fiscal year 2004-2005 General Fund balance to be appropriated in fiscal year 2005-2006 in the Department of Education SEEK and Learning and Results Services budget units; **Funds Transfer:** Increases the funds transfer from the Local Government Economic Development Fund in fiscal year 2005-2006 by $2,384,000, increases the funds transfer from the Board of Auctioneers in fiscal year 2003-2004 by $7,700, decreases the funds transfer from the Board of Nursing in fiscal year 2003-2004 by $8,000, increases the funds transfer from the Board of Private Investigators in fiscal year 2003-2004 by $300, and makes technical corrections to budget unit entries in the Department of Education.

Floor Amendment No. 1 to **HB 301**, by Representative Marzian:

HB 301, On page 2, after line 13, by inserting the following:

"Section 2. KRS 189.515 is amended to read as follows:

(1) Except for vehicles authorized to operate on a public highway as of July 15, 1998, and except as provided in subsection (6) of this section, a person shall not operate an all-terrain vehicle upon any public highway or roadway or upon the right-of-way of any public highway or roadway.

(2) A person shall not operate an all-terrain vehicle on private property without the consent of the landowner, tenant, or individual responsible for the property.

(3) A person shall not operate an all-terrain vehicle on public property unless the governmental agency responsible for the property has approved the use of all-terrain vehicles.

(4) Except for vehicles authorized to operate on a public highway, a person operating an all-terrain vehicle~~[on public property]~~ shall wear approved protective headgear, in the manner prescribed by the secretary of the Transportation Cabinet, at all times that the vehicle is in motion.~~[The approved headgear requirement shall not apply when the operator of any all-terrain vehicle is engaged in:~~

~~(a) Farm or agriculture related activities;~~

~~(b) Mining or mining exploration activities;~~

~~(c) Logging activities;~~

~~(d) Any other business, commercial, or industrial activity; or~~

~~(e) Use of that vehicle on private property.~~]

(5) [~~(a)~~]A person under the age of sixteen (16) years shall not operate an all-terrain vehicle[~~ with an engine size exceeding ninety (90) cubic centimeters displacement, and a person under the age of sixteen (16) years shall not operate an all-terrain vehicle except under direct parental supervision.~~

~~(b) A person under the age of twelve (12) years shall not operate an all-terrain vehicle with an engine size exceeding seventy (70) cubic centimeters displacement~~].

(6) (a) A person may operate an all-terrain vehicle on any two (2) lane public highway in order to cross the highway. In crossing the highway under this paragraph, the operator shall cross the highway at as close to a ninety (90) degree angle as is practical and safe, and shall not travel on the highway for more than two-tenths (2/10) of a mile.

(b) A person may operate an all-terrain vehicle on any two (2) lane public highway, if the operator is engaged in farm or agricultural related activities, construction, road maintenance, or snow removal.

(c) The Transportation Cabinet may designate, and a city or county government may designate, those public highways, segments of public highways, and adjoining rights-of-way of public highways under its jurisdiction where all-terrain vehicles that are prohibited may be operated.

(d) A person operating an all-terrain vehicle on a public highway under this subsection shall possess a valid operator's license.

(e) A person operating an all-terrain vehicle on a public highway under this subsection shall comply with all applicable traffic regulations.

(f) A person shall not operate an all-terrain vehicle under this subsection unless the all-terrain vehicle has at least one (1) headlight and two (2) taillights, which shall be illuminated at all times the vehicle is in operation.

(g) A person operating an all-terrain vehicle under this subsection shall restrict the operation to daylight hours, except when engaged in snow removal or emergency road maintenance.

Section 3. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.285, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, or 189.270 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is five thousand (5,000) pounds or less. When the excess exceeds five thousand (5,000) pounds the fine shall be two cents ($0.02) per pound for each pound of excess load, but the fine levied shall not be less than one hundred dollars ($100) and shall not be more than five hundred dollars ($500).

(b) Any person who violates the provisions of KRS 189.271 and is operating on a route designated on the permit shall be fined one hundred dollars ($100); otherwise, the penalties in paragraph (a) of this subsection shall apply.

(c) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(d) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510[~~ or KRS 189.515~~] shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) ***Any person who violates Section 2 of this Act shall be sentenced to community service for twenty (20) hours for the first offense. A second or subsequent offense shall result in a fine of one hundred dollars ($100), fifty dollars ($50) of which shall be deposited in the traumatic brain injury trust fund established under KRS 211.476. Funds collected under this subsection shall not apply to the limits established under KRS 42.320(2)(d).***

(9) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10)[~~(9)~~] (a) Any person who violates KRS 189.530(1) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates KRS 189.530(2) shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(11)[~~(10)~~] Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(12)[~~(11)~~] Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(13)[~~(12)~~] The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(14)[~~(13)~~] Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(15)[~~(14)~~] Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(16)[~~(15)~~] Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(17)[~~(16)~~] Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(18)[~~(17)~~] (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(19)[~~(18)~~] Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(20)[~~(19)~~] Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(21)[~~(20)~~] Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(22)[~~(21)~~] A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars ($10) nor more than one hundred

dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(23)[~~(22)~~] Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(24)[~~(23)~~] Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(25)[~~(24)~~] Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(26)[~~(25)~~] Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(27)[~~(26)~~] Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(28)[~~(27)~~] A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

Section 4. KRS 186.574 is amended to read as follows:

(1) The Transportation Cabinet shall establish a state traffic school for new drivers and for traffic offenders. The school shall be composed of uniform education and training elements designed to create a lasting influence on new drivers and a corrective influence on traffic offenders. District Courts may in lieu of assessing penalties for traffic offenses, other than for KRS 189A.010, sentence offenders to state traffic school and no other. The Transportation Cabinet shall enroll a person in state traffic school who fails to complete a driver's education course pursuant to KRS 186.410(5).

(2) If a District Court stipulates in its judgment of conviction that a person attend state traffic school, the court shall indicate this in the space provided on the abstract of conviction filed with the Transportation Cabinet. Upon receipt of an abstract, the Transportation Cabinet, or its representative, shall schedule the person to attend state traffic school. Failure of the person to attend and satisfactorily complete state traffic school in compliance with the court order, may be punished as contempt of the sentencing court.

(3) The Transportation Cabinet shall supervise, operate, and administer state traffic school, and shall promulgate administrative regulations pursuant to KRS Chapter 13A governing facilities, equipment, courses of instruction, instructors, and records of the program. In the event a person sentenced under subsection (1) of this section does not attend or satisfactorily complete state traffic school, the Transportation Cabinet may deny that person a license or suspend the license of that person until he reschedules attendance or completes state traffic school, at which time a denial or suspension shall be rescinded.

(4) Persons participating in the state traffic school as provided in this section shall pay a fee of fifteen dollars ($15) to defray the cost of operating the school, except that if enrollment in state traffic school is to satisfy the requirement of KRS 186.410(4)(c), a fee shall not be assessed. Any funds collected pursuant to KRS 186.535(1) that are dedicated to the road fund for use in the state driver education program may be used for the purposes of state traffic school.

(5) The following procedures shall govern persons attending state traffic school pursuant to this section:

(a) A person convicted of any violation of traffic codes set forth in KRS Chapters 177, 186, or 189, and who is otherwise eligible, may in the sole discretion of the trial judge, be sentenced to attend state traffic school. Upon payment of the fee required by subsection (4) of this section, and upon successful completion of state traffic school, the sentence to state traffic school shall be the person's penalty in lieu of any other penalty, except for the payment of court costs;

(b) Except as provided in KRS 189.990*(28)*[~~(27)~~], a person shall not be eligible to attend state traffic school who has been cited for a violation of KRS Chapters 177, 186, or 189 that has a penalty of mandatory revocation or suspension of an offender's driver's license;

(c) Except as provided in KRS 189.990*(28)*[~~(27)~~], a person shall not be eligible to attend state traffic school for any violation if, at the time of the violation, the person did not have a valid driver's license or the person's driver's license was suspended or revoked by the cabinet;

(d) Except as provided in KRS 189.990*(28)*[~~(27)~~], a person shall not be eligible to attend state traffic school more than once in any one (1) year period, unless the person wants to attend state traffic school to comply with the driver education requirements of KRS 186.410; and

(e) The cabinet shall notify the sentencing court regarding any person who was sentenced to attend state traffic school who was ineligible to attend state traffic school. A court notified by the cabinet pursuant to this paragraph shall return the person's case to an active calendar for a hearing on the matter. The court shall issue a summons for the person to appear and the person shall demonstrate to the court why an alternative sentence should not be imposed.".

Floor Amendment No. 2 Title to **HB 301**, by Representative Marzian:

HB 301, By amending the title to read "AN ACT relating to vehicles.".

Floor Amendment No. 1 to **HB 459**, by Representative Upchurch:

HB 459, On page 1, line 8, after the subsection number "(2)" and before the word "upon" delete all the new language on line 8, and change the lowercase word "upon" to an uppercase word "Upon"; and

On page 1, line 9, after "186A.520" delete the opening bracket "[" and remove the strike throughs from the remainder of line 9; and

On page 1, line 10, remove the strike throughs from the word and comma "section," and delete the closing bracket "]"; and

On page 1, line 23, after the word "title" delete "***shall not***", and remove the brackets around and the strike throughs from the word "may", and after the word "issued" delete the words "***to any vehicle***"; and

On page 1, line 24, delete the word "***with***" and remove the brackets around and the strike throughs from the word "from"; and

On page 1, line 25, after the word "classification" delete "***. A vehicle***"; and

On page 2, lines 1 and 2, delete lines 1 and 2 in their entirety; and

On page 2, line 3, before the opening bracket "[" delete all the new language on line 3, and delete the opening bracket "[", and remove the strike throughs from the remainder of line 3; and

On page 2, lines 4 through 14, remove all the strike throughs on lines 4 through 14; and

On page 2, line 14, before the period "." delete the closing bracket "]"; and

On page 2, between lines 14 and 15, insert the following:

"***(d) The owner of a vehicle with a brand from another jurisdiction identifying the vehicle as "junk," "unrebuildable," or other similar designation who is making application for a Kentucky title may be issued a title with the words "REBUILT - May Not Be Eligible To Be Titled In All States" printed on the face of the title.***"; and

On page 3, line 19, after the words and period "REBUILT VEHICLE."" and before the word "This" insert the following:

"***The disclosure shall include a place for the owner to designate if the vehicle may not be eligible to be titled in all states.***".

Floor Amendment No. 3 to the Committee Substitute to **HB 540**, by Representative Walton:

HB 540, On page 1, line 10, after "***well-being.***" insert the following:

"***To preserve and defend the right of students to express faith-based convictions in the classroom, the General Assembly finds that, in addition to being injured by other forms of hate speech, the psychological well-being of a student is injured when his or her faith-based values and convictions against homosexuality and same-sax marriage are openly ridiculed, mocked, or mischaracterized as bigoted, hateful, or homophobic.***"

Floor Amendment No. 4 to **HB 540**, by Representative Walton:

HB 540, On page 1, line 10, after "***well-being.***" insert the following:

"***To preserve and defend the right of students to express faith-based convictions in the classroom, the General Assembly finds that, in addition to being injured by other forms of hate speech, the psychological well-being of a student is injured when his or her faith-based values and convictions against homosexuality and same-sax marriage are openly ridiculed, mocked, or mischaracterized as bigoted, hateful, or homophobic.***"

Floor Amendment No. 5 to the Committee Substitute to **HB 540**, by Representative Meeks:

HB 540, On page 4, line 3, after "***incident***" by deleting "***anonymously***" and inserting "***confidentially and a provision that permits a complainant or parent or guardian of a student who is the victim of bullying to request confidentiality when reporting an incident***" in lieu thereof.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills:

HB 18, Representatives Riggs, A. Arnold, Cherry, Buckingham, T. Thompson, Nelson, Collins, Meade, Bruce, Hall, J. Arnold, R. Adams, Webb, Pasley, Pullin, Yonts, Gooch, Haydon, De. Butler, Hoffman, Ballard, Gray, Edmonds, Rand, and J. Lee

HB 295, Representative Crimm

HB 301, Representative Pullin

HB 323, Representative McKee

HB 380, Representative Riggs

HB 463, Representative Wilkey

HB 471, Representative Palumbo

HB 519, Representatives Belcher and T. Thompson

HB 537, Representative Gooch

HB 570, Representative Bratcher

HB 572, Representative Crenshaw

HB 595, Representative Bather

HB 606, Representative Napier

HB 613, Representatives Napier, Kerr, Walton, Vincent, Harper, Siler, Turner, Crall, Montell, Baugh, Brinkman, Couch, Marcotte, Crimm, Reinhardt, B. Smith, DeWeese, Embry, Mobley, and Hoover

HB 618, Representative Crimm

HB 623, Representatives Nesler, Horlander, and Meeks

HR 147, Representative Belcher

HCR 17, Representatives Harmon and S. Lee

HCR 172, Representatives J. Adams, Rand, Jenkins, Burch, De. Butler, Wayne, Miller, Riggs, Marzian, Meeks, Horlander, Bather, and P. Clark

The following member filed a request to have his name withdrawn as a co-sponsor of a Bill:

HB 58, Representative Gray

Announcements

The following meetings were announced:

Committee on Appropriations and Revenue: upon recess

Majority Caucus: upon recess, Supreme Court Chambers

Minority Caucus: upon recess, Room 314

Committee on Tourism Development and Energy: upon adjournment, Room 316

Budget Review Subcommittee on General Government, Finance, and Public Protection: no meeting today, Friday, February 27, 2004, upon adjournment

Adjournment

Representative Adkins moved that when the House does adjourn it does so until 9:00 a.m., Friday, February 27, 2004. Agreed.

Representative Adkins moved that the House adjourn.

The motion that the House adjourn until 9:00 a.m., Friday, February 27, 2004, was adopted by voice vote.